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LIST OF WITNESSES (continued).

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" "	" "	Mr. ROBERT FREDERIC BAYFORD.	Representative of the General Council of the Bar.	48,099-48,223	157
" "	" "	Mr. THOMAS JAMES WORLEY.	President of the Solicitors' Managing Clerks Association.	48,224-48,302	161
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" "	" "	The Hon. JOHN WILLIAM MANSFIELD.	Legal Chancery Visitor of Lunatics.	48,650-48,833	176
" "	" "	Mr. STANLEY LEATHES, C.B.	First Civil Service Commissioner.	48,834-48,958	182
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" "	" "	Mr. EDWARD MANSON	Registrar in Bankruptcy, Companies (Winding-up) Department.	49,168-49,394	193
" "	" "	Mr. EDWARD STANLEY ROSCOE.	Admiralty Registrar -	49,395-49,545	200
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" "	" "	Mr. WILLIAM HOWARD WINTERBOTHAM.	Official Solicitor.	49,887-50,056	217
" "	" "	Mr. EDWARD SANT -	Member of the Staff of the Official Solicitor.	50,057-50,061	225
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" "	" "	Mr. JAMES MELLOR PAULTON.	Assistant Paymaster-General of the Supreme Court.	50,537-50,729	239
" "	" "	Mr. HENRY SELLAR -	Principal Clerk in the Supreme Court Pay Office.	50,730-50,812	250
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" "	" "	Mr. CHARLES NEISH, C.B.	Registrar of the Privy Council (Judicial Committee).	50,881-50,993	255
" "	" "	Mr. W. R. WALLACE -	Chief Clerk to the Judicial Committee of the Privy Council.	50,994-51,406	260
" "	" "	Mr. BUTLER ASPINALL, K.C.	Representative of the General Council of the Bar.	51,407-51,521	275
" "	" "	Mr. EDWARD WILLIAM HANSELL.	Representative of the General Council of the Bar.	51,522-51,521	275
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" "	" "	Mr. ARTHUR DENMAN	Clerk of Assize of the South-Eastern Circuit.	51,522-51,521	275
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" "	" "	Mr. A. HEMMONS, Mr. F. W. CROSS, Mr. E. H. WADE, and Mr. W. BURGESS.	Representatives of the County Court Clerks and Officers Association.	51,522-51,521	275

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		Mr. R. L. OVERBURY	Third Class Clerk in the Supreme Court Central Office.		
" "	" "	Mr. ROBERT STANLEY OLIVER MAIS.	District Registrar and District Probate Re- gistrar, Manchester.	52,460-52,622	314
" "	" "	Mr. CHARLES HENRY MORTON.	Honorary Secretary of the Associated Pro- vincial Law Societies.	52,623-52,731	320
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" "	" "	Mr. A. E. DAVIS, Mr. J. E. LISTER, and Mr. R. W. JONES.	Representatives of the District Probate Re- gistry Clerks Asso- ciation.	53,075-53,244	337
" "	" "	Mr. LEONARD WILLIAM KERSHAW.	King's Coroner and Attorney, Master of the Crown Office and Registrar of the Court of Criminal Appeal.	53,245-53,321	343
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" "	" "	Mr. WALTER EDWIN DAVEY.	High Bailiff, Birming- ham County Court	53,635-53,739	359
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		Mr. W. C. KEELING	Assistant Superinten- dent of the Scrive- nery Department of the Royal Courts of Justice.		
" "	" "	Mr. ARTHUR OLDHAM JENNINGS.	Registrar of the Brigh- ton County Court.	53,993-54,098	372
" "	" "	Mr. GURNEY COOMBS	Registrar and High Bailiff of the Thrap- ston and Oundle County Court.	54,099-54,169	376
" "	" "	Mr. C. C. CARTWRIGHT	Second Class Clerk in the Bankruptcy Department.	54,170-54,232	379
" "	" "	Mr. H. J. CARR	Third Class Clerk in the Bankruptcy Department.	54,233-54,265	380
One Hundred and Thirtieth Day.	29th April 1915	Mr. CHARLES WILLIAM KENTISH.	Managing Clerk to Messrs. Williamson, Hill & Co.	54,266-54,487	382
" "	" "	Mr. LEONARD SARTO- RIS.	Superintendent of the Royal Courts of Justice Staff.	54,488-54,574	388
" "	" "	Mr. THOMAS MILLIKIN	Third Class Clerk in the Chancery Regis- trars' Office.	54,575-54,628	390
" "	" "	Mr. G. A. HUNT	Third Class Clerk in the Bankruptcy Taxing Office.	54,629-54,650	392
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" "	" "	Mr. G. PLEASS -	Member of the Staff of the Survey and Map Department of the Land Registry.	55,189-55,248	420
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" "	" "	Sir JAMES PATTEN MAC DOUGALL, K.C.B.	Registrar-General for Scotland and De- puty Clerk Register.	55,670-55,921	445
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" "	" "	Mr. WILLIAM THOMAS KETCHEN, W.S.	Keeper of the General Register of Sasines.	56,261-56,445	468
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" "	" "	Mr. GERALD LAKE CROLE, K.C.	Principal Clerk of Justiciary.	56,721-56,824	485
" "	" "	Mr. RALPH RICHARD- SON, W.S.	Commissary Clerk of Edinburgh.	56,825-56,901	489
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" "	" "	Mr. HENRY HILTON BROWN.	Procurator Fiscal of Midlothian.	57,321-57,484	504
" "	" "	Mr. PETER FRASER MACKENNA.	Procurator Fiscal of Ayrshire (Ayr Dis- trict).	57,485-57,531	512
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" "	" "	Mr. JOSEPH CAMPBELL PENNEY.	Accountant of Court	57,688-57,847	520
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" "	" "	Mr. JAMES ANDREW -	Representative of the Faculty of Procura- tors in Glasgow.	58,010-58,125	532
" "	" "	Mr. JAMES HOTCHKIS JAMESON, W.S.	Representative of the Society of Writers to the Signet.	58,126-58,255	535
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" "	" "	The Right Hon. the LORD DUNEDIN, K.C.V.O., K.C.	Lord of Appeal in Ordinary.	58,411-58,531	547
" "	" "	Mr. JAMES SMITH CLARK, S.S.C.	Auditor of Accounts of the Court of Session.	58,532-58,572	555
" "	" "	Mr. JOHN HAMILTON -	Clerk in the Sheriff Clerks' Office in Glasgow.		
" "	" "	Mr. ANDREW HAMILTON Mr. JAMES CHALMERS CROSBIE.	Do. Do. Clerk in the Sheriff Clerks' Office in Dumfries.	58,572	

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" "	" "	Mr. G. GILES - -	Procurator Fiscal De- pute for Glasgow.		
" "	" "	Mr. J. R. YEATES -	Procurator Fiscal De- pute for Dumbar- ton.		
" "	" "	Mr. JOHN TOLMIE -	Engrossing Clerks in the Register of Deeds.	58,845–58,896	564
" "	" "	Mr. ANDREW L. BORTHWICK.			
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" "	" "	Mr. ANDREW HARRI- SON.	Sheriff Clerk of Mid- lothian.	59,119–59,261	576
" "	" "	Mr. JAMES FISHER -	Second Class Clerk in the General Regis- ter of Sasines.	59,262–59,321	579
" "	" "	Mr. JAMES A. FLEMING, K.C.	Sheriff of Fife and Kinross.	59,322–59,441	581
" "	" "	Mr. WALTER JAMES LEWIS, S.S.C.	Representative of the Society of Solicitors in the Supreme Courts of Scotland.	59,442–59,587	586
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" "	" "	Mr. EDWARD PETER THOMSON, W.S.	Principal Extractor of the Court of Ses- sion.	59,765–59,914	597
" "	" "	Mr. WILLIAM BOYD ANDERSON.	President of the In- corporated Society of Law Agents in Scotland.	59,915–60,062	602
" "	" "	Sir THOMAS MUNRO.	Representatives of the Association of Coun- ty Councils in Scot- land.	60,063–60,097	607
" "	" "	Mr. JAMES E. SHAW.			
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" "	" "	The Right Hon. CHARLES SCOTT- DICKSON, K.C., M.P.	Dean of the Faculty of Advocates.	60,340–60,469	624
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" "	" "	The Right Hon. Sir SAMUEL THOMAS EVANS.	President of the Pro- bate, Divorce, and Admiralty Division.	60,739–60,898	642
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ROYAL COMMISSION ON THE CIVIL SERVICE.

MINUTES OF EVIDENCE

TAKEN BEFORE THE

ROYAL COMMISSION

ON THE

CIVIL SERVICE.

At the Royal Commissions House, Old Palace Yard, S.W.

ONE HUNDRED AND ELEVENTH DAY.

Thursday, 11th February 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Rev. the LORD BISHOP OF SOUTHWARK.
Sir SAMUEL JOHN GURNEY HOARE, Bart., M.P.
Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. JOHN ROBERT CLYNES, M.P.
Mr. CECIL COWARD.

Mr. RICHARD DURNING HOLT, M.P.
Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.
Mrs. DEANE STREATFEILD.
Mr. E. W. H. MILLAR (*Secretary*).

Sir KENNETH AUGUSTUS MUIR MACKENZIE, G.C.B., K.C., called and examined.

43,891. (*Chairman*.) Sir Kenneth, what is the post you occupy?—I suppose, at any rate for the purposes of this Commission, I am Permanent Secretary to the Lord Chancellor.

43,892. And that post has the same relation to the Lord Chancellor as that of the Permanent Secretary in other Government departments has to the Minister in charge?—Yes, practically; there is no real difference.

43,893. How long have you occupied this post?—Exactly thirty years; no, it is thirty-one years now. I became Permanent Secretary in 1884.

43,894. And in that capacity you are the permanent officer who is responsible to the Lord Chancellor in his control of all the legal departments?—Certainly.

43,895. As regards the representation of the department in Parliament: in the House of Lords, of course, it is represented by the Lord Chancellor; what is the representation in the House of Commons?—There is no representation in the House of Commons.

43,896. If questions are asked in the House of Commons, who, in practice, answers them?—They used to be almost invariably answered by the Secretary to the Treasury, because they were nearly always, I think, questions that bore in some way upon financial matters; but of late years it has been much more common for the Attorney-General or the Solicitor-General to answer such questions.

43,897. This, perhaps, is a point somewhat outside our reference, but in your opinion is that representation satisfactory?—I think it is very unsatisfactory. I should hope that you would not consider it outside your reference. I should have thought it was a very important thing from several points of view, and I should be glad at any period you think proper to say a little more about it if I were allowed.

43,898. Perhaps you will give us your opinion on that point; the Commission can, of course, consider later whether it is within their reference to make a representation on the subject?—In the first place, there is nobody in the House of Commons whose duty it is to answer; there is nobody whom the Lord Chancellor can be said to instruct for the purpose. A very

common form of answer in the House of Commons is that either the Secretary to the Treasury or the Attorney-General, whichever it is, will communicate with the Lord Chancellor. Of course that is not very satisfactory; you do not get much further. Another very important thing is that when the Estimates come on, which they very rarely do, we have nobody who is really familiar with them, or whose duty it is to answer about them, or who would be in a position, I suppose, to answer anything that was like a critical question about them. We have nobody who represents the department. And then with regard to a very large sphere of the Lord Chancellor's jurisdiction, that is to say, with regard to legislation, especially Legal Bills, there is nobody to take charge of them. That bears upon the general subject of the Lord Chancellor's Office in this way, that there have been several Bills in my time dealing with questions of the organisation of the department, and so forth, things which, because they are laid down in the Judicature Acts, cannot be brought in without legislation amending the Acts. We have again and again had Bills dealing with questions of that kind; some have passed through the House of Lords, and others have been brought in in the House of Commons; but they make no progress, because it is nobody's interest to look after them. If the Secretary to the Treasury has a little spare time he may, perhaps, take some steps about such a Bill, or the Attorney-General may; but the fact is that any Bills relating to that department come at the very last, and almost invariably suffer the fate of Bills that come on late in the course of the Session. It would be a very great advantage if we had somebody in the position of the Parliamentary Under-Secretary of State for another departments whose interest it was to look after a Bill. I think those are the chief points. Is the amount of importance, taking in the whole sphere?—Yes, there was a Bill in 1884 about the Lord Chancellor's functions, and it does seem to me that it should not have a representative of that in the House of Commons. I may add, perhaps, that every Lord Chancellor under whom I have served has felt the same thing about it.

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Sir KENNETH AUGUSTUS MUIR MACKENZIE, G.C.B., K.C.

[Continued.]

43,899. Will you tell us generally what are the legal departments that are under the Lord Chancellor's control?—The main department comes under the general head of the Supreme Court, though that is divided into several sub-divisions. Then I apprehend that you intend to inquire into the County Courts, which are under his jurisdiction; and then I recollect that the Commission left over the Land Registry, though I do not know that it is strictly one of the legal departments, but it was left over to be treated at the same time as the legal departments. The Lord Chancellor makes all the appointments there, and practically lays down all the regulations and everything about it; and so it was thought better, as several of those present will remember, to leave it over until this part of the inquiry.

43,900. Yes; the Commission has already decided that the Land Registry will be within their present inquiry?—I should think that those might be said to be the three principal departments, of which the Supreme Court is very much the largest.

43,901. Will you then tell us, in somewhat more detail, what are the departments of the Supreme Court?—In the first place there is the main division into the Court of Appeal, the King's Bench Division, the Chancery Division, and the Probate, Divorce, and Admiralty Division; those are the main divisions of the Supreme Court. Then there are a good many subsidiary offices, some of which are directly part of the Supreme Court establishment, and others are closely allied to it and are under the Lord Chancellor's jurisdiction. I have thought it best to put them all under the general head of the Supreme Court for the purposes of this inquiry. The first office to be mentioned is called the Central Office. That is something more than the offices of the King's Bench Division; its name describes what it really is, namely, a collection of all those offices which are common to all the divisions. There are, for instance, the Writ Office, the Taxing Office, and so on—that class of offices; and then all the offices which are peculiar to the King's Bench Division.

43,902. In the case of the Taxing Office, is it common to all the divisions?—No, it is not common to all the divisions; but I have no doubt that later on you will find that you will inquire as to why it does not apply to all the divisions.

43,903. Does it apply to the Chancery Division or the Probate, Divorce, and Admiralty Division?—It applies to the Chancery Division. It is anticipating a little what I think you are likely to ask me later, and if you allow me I will leave it alone at present.

43,904. If you please?—Then we have the Chancery Division. The offices of the Chancery Division are in two main blocks: Chancery Chambers, that is where the individual judges of the Chancery Division carry on their business with a staff of clerks in each chamber, and then the Chancery Registrars' Office. The registrars are the people who draw up the orders after they are made in Court, and they are separate at present from Chancery Chambers. Those are the two offices in that division. Then you have the Probate, Divorce, and Admiralty Division, where there is the Principal Probate Registry, which is a very large affair, not housed in the Law Courts; it is in Somerset House.

43,905. The whole of the offices in the first two divisions you have mentioned, the Central Office and the Chancery Division, are in the Law Courts?—Yes, and the Admiralty Registry of the Probate, Divorce, and Admiralty Division is also in the Law Courts, but the Probate Registry is in Somerset House. It is a very big affair, and for some reason that I forget the Commission which recommended what offices should be concentrated together in the Royal Courts of Justice did not propose that the Probate Registry should be brought there. I think that probably is because it is related in some respects to the Revenue Department in Somerset House.

43,906. The Divorce part of the Probate, Divorce, and Admiralty Division a separate registry?—That is comparatively small affair; there is not very much to be carried out over those cases. The decree is made and is registered by the Probate Registrar, and that is about all that happens. Then besides those there is the Office of Bankruptcy, which is a separate

thing. It used to be combined with the Chancery Division, but that is very ancient history. For a long time it has had a separate office, and with that is allied a small office for the business done in the winding-up of companies. That also used to be in Chancery Chambers.

43,907. Where are the Bankruptcy Offices accommodated now?—They are in what is called Bankruptcy Buildings; they are not inside the Law Courts; they are next door.

43,908. And as regards the Taxing Department?—That is at the Law Courts. Then there are a nest of other offices—perhaps you will allow me to read the list of them in the order I have put them down here. First of all there are the officers of the Courts of Assize. Each of the circuits has a staff, a Clerk of Assize and two or three subordinate officers. Then there is a new institution, the Court of Criminal Appeal. I will go more into detail about that a little later. Then there are the District Registrars; those are men practically in the position of masters of the Supreme Court, but scattered over the country in the different provinces. They were instituted by the Judicature Acts by way of mitigating the centralisation of judicial affairs. People used to have to come up to London for everything in the High Court, and it was thought at that time that it was desirable to have officers in the different centres about the country where preliminary affairs could be transacted before the cases came on for trial.

43,909. Are they in relation with all the divisions of the Supreme Court.—Yes. Then there is the department of Masters in Lunacy and Visitors of Lunatics, having charge of lunatics who are called lunatics so found by inquisition, not the great body of lunatics who are in institutions under orders and certificates, but they are propertied lunatics whose property you may say is in the Court of Chancery. They used to be in the Chancery Division; for a great many years now that department has been a separate affair, but still they are under the Lord Chancellor's jurisdiction. They are housed in the Royal Courts of Justice and all their regulations and the classification of their staff, and so on, are the same as in the legal departments, and you find in the Judicature Acts that it says that the officers in lunacy are to be treated in the same way as officers of the Supreme Court. Then the next I have put down is the Pay Office. It is not one of the legal departments, strictly speaking; it is a Treasury Office, the Treasury appoints the clerks and so forth; but it is housed for convenience in the Law Courts. It is the department of the Paymaster's Office which deals with legal affairs. There is a very large financial business done by the Chancery Division in the administration of estates, wills, and trusts, and various kinds of things; so that there is a separate department of the Paymaster's Office in the Royal Courts of Justice for dealing with those matters. The work of that office is closely allied to the Courts, and all its affairs are arranged under rules which the Lord Chancellor makes with the concurrence of the Treasury; so that if it has not been inquired into before (and I do not recollect in our deliberations here that it was inquired into) I think it ought to be inquired into now.

43,910. (Mr. Boutwood.) When you say the Paymaster, do you mean the Paymaster-General?—He is called Assistant Paymaster-General for the Supreme Court.

43,911. But you say in your précis a department of the Paymaster-General?—His office is a branch of the department of the Paymaster-General.

43,912. (Chairman.) As regards discipline, promotion, and so forth, is that branch under the Lord Chancellor?—No.

43,913. Under the Treasury?—Under the Treasury.

43,914. But its work is entirely concerned with the operations of the Courts and of the payment, I suppose, of the officers of the Court and of the staff?—Absolutely. There is an Act called the Supreme Court Funds Act, and rules that are called the Supreme Court Fund Rules, which regulate everything that he has to do, but do not regulate his staff. Of course, it has a bearing upon the amount of staff he may require

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Sir KENNETH AUGUSTUS MUIR MACKENZIE, G.C.B., K.C.

[Continued.]

but it does not regulate his staff; the Lord Chancellor has nothing to do with his staff.

43,915. (*Bishop of Southwark.*) Where does the money come from for that fund?—That is money paid into Court in various suits.

43,916. It has nothing to do with public money?—It has something to do with public money in a very peculiar and interesting way; that is, that the Treasury takes possession of the suitors' money and does what it thinks fit with it, subject to a guarantee that whenever an order is made that money is to be paid to a suitor they will produce it.

43,917. (*Chairman.*) Is not the expense of this department borne on the estimates of the Supreme Court?—I am ashamed to say that at this moment I forget. It is not down on our establishment list.

43,918. Is it not on page 15 of the estimates of the Supreme Court of Judicature?—Yes; in the estimates. Then there is an office that is called the Central Scrivenery Department; they are the copyists; they do the copying work. There are some rather important questions that arise upon that later, as you will see. Then, I have put down on the list the judges' clerks. They are paid out of the vote; they are a large class, and there are some important questions about them that I think you would wish to go into. You may, perhaps, later, think they ought to be ruled out; I myself think they ought to be ruled in. Then there is the department of the Official Solicitor; he is in the same kind of position as the solicitors of other departments, like the Solicitor for Inland Revenue, the Solicitor to the Treasury, and so forth, into whose offices the Commission has already inquired, as you will recollect; but our Official Solicitor's Department has not been inquired into.

43,919. Under whose directions does he act?—He is mainly under the directions of the Lord Chancellor, no doubt; but he has to act under the directions of different judges on different occasions.

43,920. We shall no doubt hear about him later on in more detail?—Yes, he will probably give his own account.

43,921. (*Mr. Boutwood.*) Is he the solicitor of the Supreme Court?—The official solicitor of the Supreme Court.

43,922. (*Chairman.*) Will you continue your list?—Then there is the staff of attendants, ushers, and so forth who are called the Royal Courts of Justice staff. They are a body of about 170 men who, I think, must be included amongst the legal departments, although they are not clerks. And, finally, there is the office that is called the Crown Office in Chancery. It is one with which I myself am personally concerned. I put it last, because the main business of the Crown Office is not within the Supreme Court of Judicature. The Clerk of the Crown is an officer both of the House of Commons and of the House of Lords, and his operations in that respect are quite independent of the Supreme Court, and even independent of the Lord Chancellor.

43,923. Perhaps you will tell us about it in more detail later?—Yes. I put it last for that reason.

43,924. (*Mr. Holt.*) Do I rightly understand that the Vice-Chancellor of the Duchy of Lancaster's Court has nothing whatever to do with you and does not employ any of these people?—Certainly.

43,925. He is quite independent?—Yes.

43,926. And he has a staff of his own different from the staff you have put before us?—Absolutely. I must confess, though it sounds rather fatuous, that it never occurred to me to put down the Lancaster Office, and yet it undoubtedly is one of the legal departments. I suppose that, having at least enough things of my own to look after, I forgot about it, but I presume that you will inquire into it.

43,927. It practically is the equivalent of the Chancery Court?—Certainly, but I certainly think it was an omission upon my part when I was asked the question what are the legal departments to leave out the Chancery of Lancaster, and also to leave out the Chancery of Durham.

43,928. (*Chairman.*) Will you tell us something, so far as you think it necessary for the purposes of this inquiry, as to the history of the legal departments and

the manner in which they have assumed their present shape?—There is a great deal of history that is of interest to legal people, but I think there is a very clear root of title, 40 years, which is a very good period for a root of title, going back to the Judicature Acts. I should suggest that it would be really a waste of time to go further back than that. There may here or there appear some need to ask some question on the subject, but I think if you go back to the Judicature Acts, that is to say to 1873, you certainly go back beyond everybody who holds any office of any sort in the Supreme Court in any legal department, I think, except one. So far as I can recollect there is only one survivor.

43,929. The reform of 1873 completely changed the shape of the Courts of Justice and placed them in their present position?—Yes; it brought them all together into one Supreme Court.

43,930. Is the arrangement of the courts and offices substantially the same as that which was set up by the Judicature Acts?—It has grown up since the passing of the Judicature Acts. I think it has entirely fulfilled the scheme set out in the Judicature Acts.

43,931. If I put it that the process of unification which the Judicature Acts initiated has been made more complete since, does that correctly represent the position?—Yes. There was, of course, very great difficulty in the early days—a difficulty that has been almost entirely surmounted now, in that there was an immense amount of vested interests of existing officers with rights which could not be disturbed, and it took a long time to put into working order a complete system when you had to make, or wished to make, material alterations in the position of various individuals; but that has now, I think I may say, completely worked itself out.

43,932. Owing to the fact that all the present officers have been appointed since the date of the Judicature Acts?—Yes.

43,933. Was it at that time that the Treasury was first brought in as a concurrent regulating power?—I think practically the Treasury came in rather earlier. When first these operations were going on of renovation of the legal establishment, there was an Act we used to have a great deal to do with, called the Salaries and Funds Act of 1869. I need only say in a very few words what the meaning of that Act was. Previously to that time the money out of which salaries were paid was the actual money of the suitors; the suitors paid fees to the courts for the various stages of their litigation; these were collected together in what was called the Suitors Fee Fund, which was looked after by an officer (an ancestor of the Official Solicitor) who was called the Solicitor to the Suitors Fee Fund; and the Lord Chancellor made orders on that fund, which was, so to speak, his own fund, for paying salaries and so forth. The great change made by the Salaries and Funds Act was that all fees were paid to the Treasury, and the Treasury became responsible for paying salaries, not out of those fees, but out of their general funds. There was an agreement with the Treasury a few years later that fees enough should be taken to make the Supreme Court self-supporting; and that is the principle upon which things have proceeded practically since 1869.

43,934. Can the Supreme Court be said to be self-supporting now?—I think more than self-supporting, with one great exception, which is that it is considered in principle that the judges' salaries must be paid out of the Consolidated Fund. I think that goes back to Magna Charta. It is supposed that the King is giving free justice by not making the suitor pay for his judge, but he pays for everything else.

43,935. Then, in principle, if the salaries of the judges are left out of account, the revenue from fees is intended to cover, and does in fact cover, the whole expense of the machinery of the courts and their officers?—I think it does. Perhaps you will ask somebody from the Treasury about it.

43,936. (*Bishop of Southwark.*) Is the amount of the fees determined by that object?—Yes, there was a practical agreement on that subject, about 1884 I think it was.

43,937. Did the Judicature Act of 1873 follow upon the Judicature Commission?—Yes.

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43,938. It carried out their recommendations?—Yes, I think all the recommendations could have been carried out under that Act. That Act has not been fully worked out, I think.

43,939. (*Chairman.*) Since the date of the Judicature Acts are such changes as have been made substantially further instalments in carrying out the reforms contemplated by the Judicature Commission?—I think they may very fairly be described in that way.

43,940. Now, as regards the Acts of Parliament which at present regulate the Supreme Court and its officers, the principal one, I presume, is the Judicature Act itself?—Yes, the Act of 1873, coupled with the Act of 1875. The Act of 1873 was passed at the end of that year, and then it was postponed because of the great practical difficulty of carrying it into operation immediately; then there came a change of Government, and some very considerable modifications were made by the Act of 1875. Lord Chancellor Selborne was the author of the Act of 1873, and Lord Chancellor Cairns was Lord Chancellor when the Act of 1875 was passed, which made some alterations. I do not think any of them are alterations with which this Commission need be concerned; they made differences of very great importance in the legal world, but I do not think they are matters with which you need be concerned. But it does not do to speak of the Act of 1873 as if it was the principal Act. It is always known as the principal Act, but the Act of 1875 must be read with it by anybody who wants fully to understand the position of the Supreme Court.

43,941. Those Acts, I think, were followed by the Act of 1879 regulating the position of officers?—Yes, that Act of 1879 is a very important Act for this Commission in inquiring into our organisation.

43,942. Was that the outcome of an inquiry?—There was a committee. It was a little before my time, but I was very well acquainted with it. I think it was called the Legal Offices Committee.

43,943. Was that the Legal Offices Committee of 1878?—That would be it. I have not looked at it for years. It was a very good committee.

43,944. (*Mr. Boutwood.*) Was it a Treasury Committee or a Parliamentary Committee?—I think it was called a Departmental Committee of the Lord Chancellor and the Treasury.

43,945. (*Chairman.*) The Master of the Rolls was Chairman?—Yes, Sir George Jessel.

43,946. Those are the principal Acts of Parliament bearing on the position of officers?—I think, if I may say so, that any member of the Commission who wanted to go into this need not look at anything in the Judicature Act of 1873, except Sections 77 to 84. Sections 77 and 84 themselves are the two most important sections. Section 77 is the one that transferred to the Supreme Court all the offices existing in all the Courts going on at that time; it transferred the old body to the new body. Section 84 of the Act is of very great importance, for this reason, because it is the one that lays down that the appointment of officers in each division is to be made by the President of that division. If the King's Bench Division had an office of its own, all the appointments under that section would be in the Lord Chief Justice of England, but it has not a department of its own; as I explained a little time ago, it is absorbed in the Central Office, which also contains those offices which are common to all parts of the Supreme Court. Accordingly the result was, as you would see in the Act of 1879 (the Officers Act), that there is a sort of committee for appointment in that combined office, which has gone through various vicissitudes, but at this moment it consists of the Lord Chancellor, the Lord Chief Justice of England, and the Master of the Rolls, because they were the persons who contributed to the General Office from their offices to make up the common office and they appoint in turns.

43,947. Perhaps you will deal with the question of nomination a little later?—I only wanted to say why that section is of importance.

43,948. Will you tell us what other Acts of Parliament or Rules or Orders have a material bearing?—There are the Rules of the Supreme Court, because the Act says that the different officers and different

functions are to be divided by Rules of Court; so that there are certain Rules of Court called Orders LV., LXI., LXII., and LXIII., Rules of the Supreme Court, which lay down what is necessary for the constitution of those departments. Order LXI. is the main one.

43,949. Order LXI. appears to deal with the Central Office?—That gives the departments of the Central Office. It is divided into seven or eight departments in the schedule to that Order: the Writ and Appearance Department, the Associates Department, the Crown Office Department, and so on.

43,950. We shall find all that in Order LXI.?—Yes.

43,951. Do the other Orders deal with the other offices of the Court?—Yes. Those from LXI. to LXIII.

43,952. Then besides the Rules of the Supreme Court there are Orders of the Lord Chancellor bearing on the point?—There exist the Orders, and I should think you ought to see them, for constituting each of these departments, that is to say, there is the Order saying what is to be the classification, and what are to be the salaries of the masters and clerks of the Central Office; that I think was in 1882. Then there is a similar Order by the Lord Chancellor and the Treasury doing the same thing for the Chancery Division; that I think was in 1881. Then there was a similar Order for the Probate, Divorce, and Admiralty Division made in 1882.

43,953. Are those Orders published?—They certainly used to be published; I do not know if they are published now. All persons concerned know them by heart, and I should think they have probably gone out of print. I could only find in my own office the originals.

43,954. Could you put in copies for the information of the Commission?—Yes, there is no difficulty about it. Then I have put down, among the documents you really ought to be referred to, the various departmental committees that have sat from time to time inquiring into the different departments.

43,955. Are those committees appointed by the Lord Chancellor?—I think all by the Lord Chancellor and the Treasury together. I think that you would find that there was a Treasury officer on every one of them. There was a very important committee on the Chancery Division in 1885, and one on the Central Office that, I think, sat in 1886, but it is always referred to as in 1887; I think it was only published in 1887. Both of those are Parliamentary Papers. Then there was an important one on the Taxing Office, which you referred to just now, which recommended that the taxing offices of the different Courts should be brought together into one office.

43,956. Is that a Parliamentary Paper?—No, it is not; it is entirely a departmental affair.

43,957. Could a copy of that be put in?—Certainly. And then there was one on the work of the Lunacy Masters' Office* and another on its staff, one on the Probate Registry, one on the Chancery Registrars Office,† and one on the Central Scrivenery Department. The importance of those documents is that our establishment is formed on the recommendations that were settled by those committees.

43,958. Perhaps you will be kind enough to let the Commission have copies of all reports that have not been presented to Parliament?—Yes. Then there is one document, a very clear and simple document, which I think certainly each Commissioner who wishes to go into detail about these things ought to have in his hands, what we call the Establishment List. Really everything I have mentioned in those numerous reports and Acts of Parliament, and so on, is there. This is the result. This is what we did. This is what was paid on the 1st April last to every man. There is everybody's name; you see what he gets, you see what prospect he has of getting anything more, you see when he was appointed, his promotion, and in fact everything about him. It is a very simple and short document, and is as clear as possible.

43,959. That I think is in the hands of the Commission. Are there any other documents which you

* *Vide* Appendix XCI.† *Vide* Appendix XCII.

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consider should be placed before the Commission?—There is the Order under which the Courts of Justice staff is constituted; the only other document I thought that the Commission need be troubled with is the Order by the Civil Service Commission as to the age, the subjects of examination, and so forth. That, of course, is an important order, because our system is that everybody who is nominated for an appointment has to obtain the certificate of the Civil Service Commissioners.

43,960. That also is in the hands of the Commission?—Yes, it is a public document.

43,961. You have now given us a list of the departments and a general view of their relation to the Supreme Court and to the Lord Chancellor?—Yes, I should think so.

43,962. Will you now give us a general description of the nature of the organisation of the legal departments?—Yes, that is important. There are one or two points of very great difference between our organisation and the general organisation of the Civil Service. If I might be allowed for a moment to speak as if I was still one of the Commissioners, I should like to be allowed to say that I should have thought the most useful way of inquiring into the legal departments was to see why what we recommended for the other Civil Establishments should not be applied to the Supreme Court. I know that another Commissioner who has retired from the work of the Commission said to me that he thought that, having come to this point in the inquiry, the most convenient thing would have been to appoint a sub-committee with instructions to look into that very question, and that that really was what we wanted to find out: Why, with regard to appointments and all the other particulars, there should be a difference between the legal departments and other departments. Well, one difficulty about the matter starts at once out of your question, Sir, because our organisation is of this kind. At the head we have officers of professional qualifications who may be generally called the masters of the Supreme Court. It happens that in some departments they still retain their old name of registrars, but substantially they are what are called masters of the Supreme Court. They are men who by statute have to be of a certain position in one of the two branches of the profession; they must either be barristers of so many years' practice, or solicitors of so many years' practice. The idea is (and I do not think it is likely to be displaced or perhaps even disputed) that for the class of work they have to do you require a man who has not only been educated as a lawyer, but has practised as a lawyer, and knows what the practice is and not merely what the books are.

43,963. Can you give a general description of the nature of the work they have to do?—The nature of their work is to a large extent really what you may call judicial, because they have to hear the applications of suitors at an early stage, the preliminary stages of their litigation, and to decide whether a man is to be allowed to take this step or that step or the other step, his opponents strenuously representing that he ought not to be allowed to take it; they have to decide questions of that sort which nobody can decide merely from being a learned lawyer. He ought to be a man who has had to deal with those questions as a practitioner. The judge sits in court and decides the questions between the litigants after there has been a long preliminary wrangle over the steps that finally settle the issues which the judge has got to try. After he has given his judgment, which perhaps involves one very short proposition, though probably described at considerable length, that proposition involves between the parties very often a very great deal of working out, and that again is done under the superintendence of this class of officers. There again it is most important that they should know what are the practice and the experience of the profession upon matters of that kind.

43,964. May it be described in this way, that the masters decide points of procedure and execution which are subordinate to the main issue that is decided by the judge?—Yes, I should say that is a fair description. I do not know what Mr. Coward would say.

(Mr. Coward.) Yes, I think that is fairly right.

43,965. (Chairman.) Is there any class of cases of which the master or registrar decides the principal issue?—That is a very difficult question to answer. Of course, a case may very often turn upon what has been decided in one of these preliminary stages. I think the last case but one heard on appeal in the House of Lords, reported last week, was as to whether the Court ought to have been allowed to hear the stage of the case that was before a master in the first instance; that went up right through the Courts and came up to the House of Lords. That illustrates that the question may be of the most enormous importance at the very earliest stage of the case.

43,966. Let me put it in this way. Is there any class of cases, apart from cases where judgment is given by default, which never came before the judge at all, and are decided entirely by the master's or registrar's decision?

(Mr. Coward.) References.

(Witness.) In one sense, of course, many cases are decided in that way, because the parties having seen that a perfectly competent man has given a decision upon the point which he knows will really decide the case, if the litigant is a sensible fellow and advised by good counsel, he goes no further.

43,967. (Mr. Boutwood.) Does the statute specifically require practice and not standing?—I do not think that everywhere the Acts are quite uniform as to the language that they use. I think that practice is always meant, but I think you are probably right that we find the word standing, not practice, in one or two cases.

43,968. (Mr. Holt.) If a judge decides that A. owes B. a certain sum of money unknown, are these the persons to investigate what is the correct amount of damage?—No, the question of damages would probably in most cases be the main point to be settled by the jury.

43,969. But, supposing the judge refers the amount of damages to the registrar, that is the man who would do it?—Yes, that is the man.

43,970. (Chairman.) Then is the whole of their work of a judicial character, or have they what might be described as administrative work as well?—I think you may say they have both, certainly.

43,971. Would that be the case especially in the Chancery offices?—Yes, I think so.

43,972. Have the registrars in the Chancery offices to deal with the practical administration of estates?—They have to carry out the directions of the judge or of the master in chambers as to what is to be done about the money. They have to work out the details of what are often very elaborate orders. Although perhaps the judge has not done very much more than say that he gives judgment for the plaintiff or the defendant, it may require a certain amount of working out in a Chancery case, and that is the registrar's business. He calls the parties, that is to say, their solicitors, before him, and they discuss the terms of this order, and he gives the directions to the paymaster who has got the money, if there is money in court, as there often is, of course, in administration of estates.

43,973. That process, if I gather rightly, would be the working out of the judicial decision into detailed directions?—Yes, to the extent of giving the directions, not seeing that they are carried out.

43,974. Does that include what I might describe as a business discretion in dealing with property?—I think you had better ask a registrar about the details of that. I think he might not be satisfied with my description. I should have said that he had not discretion of any sort.

43,975. (Mr. Coward.) The Order would direct what should be done, and he would carry it out?—Yes; the order of the judge is short, and not in detail generally, and the registrar has to interpret it, covering probably an immense amount of detail.

43,976. (Mr. Holt.) Could he of his own accord go back to the judge to ask for further instruction?—Certainly he could, and very often the parties insist upon his doing so. They have the right to go to the judge.

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43,977. (*Chairman.*) And are all decisions given by the master or registrar subject to appeal to the judge?—Yes. There are different ways in which the appeal is brought, but I would suggest that I should not go into that.

43,978. Do we rightly understand that far the greater part of a master's work is of a judicial character?—I think it would be fairly described as that.

43,979. And that it is distinguished from the work of the judges by being, broadly, of a less important character, dealing with subordinate points or consequential points?—Yes, where he would give a decision. There are very important things that go through him, but he knows very well that the decision will not rest with him.

43,980. (*Mr. Coward.*) Before you pass from that, might I not say that the master's qualifications are necessarily that he should be a lawyer and that he should be thoroughly acquainted with the practice?—That is my opinion, and I think that is the meaning of the Acts under which the qualification is laid down.

43,981. The section is Section 10 of the Act of 1879: "A person shall not be qualified to be appointed master of the Supreme Court, unless he is or has been a practising barrister or solicitor of five years' standing, or has practised for five years as a special pleader or as a special pleader and barrister; but nothing in this section shall affect," etc.?—That is the section. Of course, five years is nothing; there is no such thing, in my experience at least, as a man being appointed who has only five years. Just as the qualification for a judge I think is ten years, but very few are appointed with less than 20 years.

43,982. (*Mr. Boutwood.*) Are they brought in straight from the outside profession?—Yes. Then you see there is a great gap. That is the immense difference between the Civil Service and the legal service; you go right down from these gentlemen, who may be called 1,500 pounders, because, though there are some who have higher salaries, that is the real maximum salary, 1,500*l.*, you go right down to 600*l.*, and that is an enormous gap. Generally speaking, our organisation makes a complete distinction between those who are at the head, the masters, and the staff of clerks. The staff of clerks begin in the lowest grade at 100*l.* a year, and the maximum, subject to some personal cases, is 600*l.* a year.

43,983. (*Chairman.*) What are the classes between those limits?—They are divided into third, second, and first class. The third class from 100*l.* by 10*l.* to 200*l.*; second class 250*l.* by 15*l.* to 400*l.*; and the highest class 500*l.* a year, rising by 25*l.* to 600*l.*

43,984. Are there one or two offices in which there is a class somewhat higher than that? In the Chancery Registrar's Office there are Clerks to the Registrars are there not?—Yes; but I think for the purpose of your present inquiry it may be taken that the organisation is:—a set of judicial personages (I think you may almost describe them) at 1,500*l.* a year, with a staff of clerks under them in three grades, third, second, and first, with a maximum of 600*l.* That at once raises a very great difficulty as to applying to the legal departments the same recommendations that were made by this Commission for the Civil Service generally.

43,985. (*Mr. Holt.*) Am I right in understanding that no first class clerk ever has or ever can become a master or registrar?—That is one of the questions which I hope this Commission will consider. I do not know if this is the best place to speak about it. You will see that later.

43,986. (*Mr. Boutwood.*) Would you explain, before you pass on, that last answer of yours, why that gap between the two classes creates a difficulty in applying the general Civil Service ideas?—I only suggest to the Commission that that is a great distinction between the legal departments and the ordinary departments, and which will make a difficulty unless you alter it.

43,987. (*Chairman.*) Is the work of the clerks entirely distinct from the work of the masters?—I think it must be regarded as such. It is a very difficult question to answer.

43,988. In principle is the work of the clerks non-judicial in character and entirely distinct from that of

a master?—Yes, I think, giving an accurate description of what their duties are, you would arrive at that.

43,989. What is the function of the master, or, as the case may be, of the registrar with regard to the staff of clerks?—Yes, and it would be convenient if we always called them masters. The language of the statute says that the business of the clerks shall be under the control (or some such word) of persons to be called masters. That is the language of the statute and that is the practice.

43,990. You have given the Commission a general view of the organisation, and before entering into that in any further detail it will be convenient to deal with the question of appointment. Will you tell us what are the methods of appointment, and by what authorities appointments are made to these various grades?—I think I mentioned that under Section 84 of the Judicature Act the president of each division appoints all the officers; that is laid down in the Act. The result of that would be that all the officers, both masters and clerks in the King's Bench Division, would be appointed by the Lord Chief Justice who is president of that division, that those in the Chancery Division would be appointed by the Lord Chancellor, who is President of the Chancery Division; and those in the Probate, Divorce, and Admiralty Division would be appointed by the President, as he is called, of that division; he has no special title like the Lord Chief Justice. But the Central Office is a composite office. It was made up under the Act which we call the Officers Act of 1879, by which there were combined in the Central Office several departments which were under the jurisdiction of different judges: all the Common Law offices, all the King's Bench offices are in the department, and certain offices that used to be under the jurisdiction of the Master of the Rolls were brought into the Central Office. The Writ Office and Record Office used to be in the Rolls Office in old times; I need not enter into the history of that; but when the Central Office was constituted the Master of the Rolls was made to contribute, so to speak, the Writ Office and the Record Office, and so it was considered that he ought to have a share in the appointment of the officers in the department which had swallowed up his former office. Then the Lord Chancellor had no power of appointment over the Central Office when it was first constituted, but there were in existence then two other divisions of the Common Law Courts that were called the Exchequer and Common Pleas, and there was under the Officers Act, 1879, a committee for appointments in this composite office consisting of the Lord Chief Justice of the King's Bench, the Lord Chief Justice of the Common Pleas, and the Chief Baron of the Exchequer. Then the Common Pleas and the Exchequer were abolished in 1881, and one big division of the King's Bench was formed, and a very strong opinion was expressed, as will be seen in the Debates in Parliament at that time, that the Lord Chief Justice of the King's Bench was not to swallow up the appointments of these two other officers, and so they had to make a new board of appointment; and the Lord Chancellor was brought in, and so it happens that he has his turn in the appointments on that side.

43,991. Then the appointments are made in rotation by the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls?—The words of the statute are that they are to be in rotation or in such order as they may determine amongst themselves, and what they have done in practice (it is not laid down anywhere) is that they have two turns; they have a turn for masters and they have a turn for clerks, for very obvious reasons; otherwise if a vacancy occurred in a clerkship, when it was the Lord Chancellor's turn, he would appoint a man at 100*l.* a year; if the next person to die happened to be a master the other judge would have an appointment of 1,500*l.* a year.

43,992. There is a separate rota for the masterships and clerkships?—There is no such thing as a rota laid down, but that is the way it has been worked.

43,993. (*Mr. Holt.*) Have they got any other officers to advise them in this matter, or do they each act through separate subordinates?—The nearest thing to a

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common officer, I should think, was myself, but there is no other community. I have no real relation to the Lord Chief Justice or to the Master of the Rolls, and they certainly have no right to give me any orders.

43,994. (*Mr. Boutwood.*) So that each of these acts of patronage is the act of one man?—Absolutely.

43,995. (*Mr. Holt.*) And there are three independent streams?—I know nothing about what the Lord Chief Justice or the Master of the Rolls may do when there is a vacancy, except that they expect me to let them know, and they are good enough to accept anything I may tell them about whose turn it is, and sometimes they allow me to make some other remarks about whether it is desirable to fill up the appointment, and so forth. But that is absolutely personal; there is no duty upon my part towards them or any authority on their part as regards me.

43,996. (*Chairman.*) And there is no common list of candidates?—They only come to me as the person who is supposed to know about affairs in general.

43,997. Then as regards the departments which do not come under those three main heads of the Central Office, the Chancery Division, and the Probate Division, in whom is the appointment to them vested, for instance the Bankruptcy Department and the Companies Winding-up Department?—There is a general provision in Section 84, of which the practical result is that if nobody else has been given the appointment the Lord Chancellor has the appointment. He appoints in the Bankruptcy Office and the Companies Office.

43,998. And in Lunacy?—Yes, in Lunacy; that completes the list.

43,999. Who appoints the District Registrars?—That is rather an involved affair. With the exception of Liverpool and Manchester the District Registrar and the County Court Registrar are the same person, and the County Court Judge appoints the County Court Registrar, so that he practically appoints the District Registrar.

44,000. (*Mr. Holt.*) What happens in Liverpool and Manchester?—Under a section in, I think it is, the Judicature Act, 1881, it is said that where the amount of business in a registry, where there would naturally be both County Court business and High Court business, is so large that one man cannot do it, and that there must be two offices, the Lord Chancellor can separate the High Court work from the County Court work, and appoint a separate man for each; and that is what takes place only at Liverpool and Manchester as a matter of fact.

44,001. (*Mr. Boutwood.*) Does the Probate Division come under that?—That is a separate affair again. That is under the President of the Probate, Divorce and Admiralty Division, because he is the President.

44,002. (*Mr. Holt.*) For the Liverpool and Manchester posts are they within the Lord Chancellor's own patronage, or do they come in rotation with others?—No, they are his affair; the Lord Chancellor appoints.

44,003. (*Chairman.*) Then as regards the subordinate posts in the Royal Courts of Justice staff, are they appointed by the Lord Chancellor?—They are appointed, by far the largest number of them, by the Lord Chancellor, but there are details described in the Order constituting the staff under which the different presidents of the divisions appoint the men who are attached to their Courts. The attendants are divided into different classes, and one important class are the men who used to be called ushers; those are the attendants at the Court both for keeping order and also if people want to get books, or to send a message, and so forth. The persons who are ushers in the King's Bench Division are appointed by the head of the King's Bench Division, by the Lord Chief Justice; in the Chancery Division by the Lord Chancellor; and in the Probate, Divorce, and Admiralty Division by the president of that division.

44,004. As regards qualifications, we have heard already the statutory qualification which is required for masters. Is there any qualification in the case of clerks?—No; no qualification by statute or by rule, unless you call the terms laid down by the Civil Service a qualification. I mean the limits of age and the passing of the examination and health and conduct,

and so forth, all of which comes before the Civil Service Commission.

44,005. Details of that, perhaps, we had better get from the First Civil Service Commissioner, whom we shall have before us?—If you are going to have him, I think it would be as well that you should hear from him and not from me; but I am quite prepared to answer any questions.

44,006. Will you kindly tell us what the age limits are?—For the third class, which may be taken as almost universally the class to which the men are appointed nowadays (it used not to be so, but that is the case now—every man is appointed in the third class and has his chance of going up), the age limit is 20 to 30.

44,007. (*Mr. Boutwood.*) I see on this précis that you have given us "age limit for examination." Is there an examination?—Yes; for the Civil Service certificate.

44,008. (*Mr. Graham Wallas.*) Only a pass examination?—Yes.

44,009. (*Chairman.*) After the nomination, have they to pass a qualifying examination?—Yes; a qualifying examination.

44,010. That examination is not of a high character, I think?—For the third class it is not at all of a high character, and very often is the only examination that the man ever passes; he is not subjected to an examination on promotion.

44,011. It is only if he is appointed direct to the first or second class that he has to pass an examination of a higher character?—He would have to pass it; but there have been very few—I do not recollect any appointment direct to the first class in my time.

44,012. Has there been any appointment to the first class in the last 20 years?—Certainly not.

44,013. Have there been any direct appointments to the second class?—One or two, but I think they are pretty ancient now.

44,014. In practice the appointments are almost entirely to the third class?—Yes, it has grown up to be so; it is not so under the regulations. Under the regulations the judge, whichever it is as president of the division, has the right to appoint to the vacancies as they occur; if it is a vacancy in the first class, he has the right to appoint to it; but it has grown up, I think probably, without much observation on the part of those concerned, to be the practice upon a vacancy occurring in the upper class for a man to be promoted from the lower class, although I think, if you looked strictly into the Orders under which the establishment is conducted, you would see that it ought to be an appointment to the first class. But you will see how curiously that might work. Say a vacancy occurs in the first class when it is the Lord Chancellor's turn, and he appoints to the first class a man by promotion out of the second class, that would create a vacancy in the second class, and then it would be the Lord Chief Justice's turn. But that is not the way it is done; it has gradually worked into this, that there is a flow of promotion from the third class up to the first upon a vacancy occurring in the first class; and the result is that there is a vacancy in the third class, and that is the vacancy to which the president, whose turn it is to appoint, appoints.

44,015. (*Mr. Coward.*) Do you consider that a satisfactory mode? You want in the first class people of great experience, which probably might not be readily obtained by merely going through the other classes. Would it not be advantageous to get, for a first class clerk, a person who has had a large practical experience?—I think, if I may say so, that that is a subject very well deserving the consideration of the Royal Commission, and I should like to be allowed to say something about it.

44,016. (*Chairman.*) We might deal with that point later when we come to the question of promotion?—According to my notes, it would be more convenient for me if it were allowed to stand over.

44,017. Does the appointed candidate in all cases pass the Civil Service examination?—He cannot get in without doing so.

44,018. Is he not excepted under Clause 7 in some cases?—Yes, we know all about that; we have dis-

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cussed all that in the Commission before. There is that power of over-riding the general rules by means of Clause 7.

44,019. Is that applied in a large proportion of appointments?—I really do not recollect any case at this moment.

44,020. (*Mr. Graham Wallas.*) Are the masters examined?—No.

44,021. Surely they must be appointed either under Clause 7 or under Section 4 of the Act of 1859?—They require no certificates; they are appointed by statute without certificate.

44,022. (*Chairman.*) The Commission already has before it a return from the Civil Service Commissioners, from which it would appear that in the last six years 10 of the third class clerks have been appointed under Clause 7, and 54 after examination. Would that be correct?—I think what that means is that there was an arrangement made (I do not know whether it could be actually described as a regulation) by the Civil Service Commission, that candidates who had been so many years, I think it is seven years, in a solicitor's office serving under a solicitor, might, if the Treasury, the Lord Chancellor, and the Civil Service Commission all agreed, be exempted from examination, on the ground that that service and practice gave them the best qualifications for a legal department; and that if these were men of over 25 years of age (because they laid down that limit) they probably would have passed away from the somewhat elementary subjects that compose that examination, and that if they had got what is regarded as a very desirable qualification in our clerks, it was vexatious and useless really to ask them to pass an examination of which I think you have got the terms before you. Then I think that brought in Clause 7.

44,023. So that in practice it would mean that the ten candidates who have been admitted under Clause 7 are those who have had experience in a solicitor's office?—Speaking without absolute recollection of the details of every case, I think you would find that in every case it meant he was a man who had been all his life in a solicitor's office and was over 25 years of age at the time of appointment.

44,024. Does that mean that the others, those who had to pass the qualifying examination, have not had experience in a solicitor's office?—It would probably mean that they had not had seven years' continuous experience in a solicitor's office, or that they were under 25 years of age. I should think it would very likely be found that the majority of those 54, I think you said, had all been in solicitors' offices, but that they were not over 25 years of age. When the Civil Service Commissioners and the other authorities decided to give that preference to men who had been in solicitors' offices, the Civil Service Commissioners said they did not think it ought to apply to men who were under 25. I do not know that I particularly sympathised with that myself at the time, if I may speak of my own opinion, but certainly I deferred to the judgment of the Civil Service Commissioners, and never raised any objection or question.

44,025. As regards the candidates who pass the examination, can you say what proportion of them have had any experience in a solicitor's office?—For a great many years there have been very few appointments made except of that class. They are on the whole, in my opinion, the best men, but I should myself be rather sorry to see it made an absolute qualification. There are some very good fellows amongst them undoubtedly, but those who would give up the profession and give up any hope of ever becoming partners in their solicitor's offices are not the very highest class of man, and I myself think that it is desirable to have a leaven in the departments if we can get them of a higher stamp of man, I mean a man of more education, the kind of man whom I think we all had in our minds as desirable for the Civil Service in the other deliberations of this Commission. I think a leaven of those men, even university men, though I hope you will not think I am enlarging too much just now—

44,026. No, it is very interesting?—When I see candidates amongst those who come and apply for the offices, I have from time to time seen university men,

men who have taken their degrees and belong to the very best class of men in the country I venture to say. I suppose they have a little despaired of what they can do and how they can make any money (they are generally poor, of course), and they say they would like to go into the legal service. Then I tell them, "Well, under the organisation of our legal service it is a very poor look out for a man like you. I do not think you ought to go into it; your ambition ought to be something more than that." But still I see some of them that I must say I am very glad to see in the office. I think they are likely to be a good influence, if they do not get eventually too much disappointed with the poverty of the service. If, in spite of all the warning and discouragements that I give them, they will go in, I think it is a good thing to be able to get hold of them; and, if it was proper to go into particulars of individual men, I could point out some instances of how successful it has been. But there you come to one of the objections that I dare say Mr. Coward will enlarge upon presently as to the disadvantage that such men as that can never go beyond 600*l.* a year.

44,027. I should like to ask a question upon that point. Have the clerical staff in any cases access to the higher offices?—They have. In the Probate Registry one of the qualifications for a registrar—that is to say, what we call a master, for the 1,500*l.* appointment—is that he shall have been a first class clerk in that department. In the Chancery Registrar's Office that you mentioned just now, under the original constitution of that office, which was at the beginning of Queen Victoria's reign, it was an absolute and only qualification for a master, or registrar as he is called there, that he should have served as what was called a principal clerk in that office, and that statute is still on the statute book.

44,028. So that in practice the masters or registrars in that office are entirely appointed from the clerks?—There has never been in my time (that is over any time you need take into consideration) any man appointed master or registrar in the Chancery Registry Office except a man who has been a principal clerk in the office. There is an inconsistency in the different divisions. You have in the Central Office and in Chancery Chambers and the Taxing Office an absolute gulf fixed; but it is not so in the Chancery Registrar's Office.

44,029. Does that difference in practice and regulation correspond to any difference in the nature of the work?—There is a good deal of difference of opinion about that. My own opinion is that it does not.

44,030. Would your own opinion be in favour of opening an avenue of promotion in the other offices?—I would, certainly, with a very strict, what I think in the former deliberations of the Commission we called, efficiency bar.

44,031. (*Mr. Boutwood.*) Those men that you were speaking of just now, I suppose, were of a somewhat higher class than the men we had in mind in thinking of the senior clerical service?—Yes, I should say so.

44,032. (*Mr. Holt.*) Do I rightly understand that in one division a first class clerk can never become a master; in another division the masters are always drawn from them, and in the third division it is sometimes one and sometimes the other?—Yes, it is so.

44,033. (*Chairman.*) Will you now tell us what your practice is in dealing with applications for nomination in the Lord Chancellor's Office?—There is nothing under the statute to prevent the Lord Chancellor appointing straight off anybody, so far as the statute is concerned, always provided that he can pass the Civil Service Commissioners. Applications are addressed simply in the form of private letters to the Lord Chancellor, and arrive at his office, saying that the applicant wishes to be considered a candidate for a clerkship in the Supreme Court, and the practice now is that where on the face of it he is a man qualified for such an appointment, say, to take one thing, that he is not over 30 years of age, he is told that he may go and interview the senior master of the Central Office. The senior master has a form agreed upon between himself and myself (I am only acting, of course, for the Lord Chancellor), which gives some different heads on which he has to report as to the qualifications of this

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man, winding up with a general statement as to whether he thinks he is a fit man for an appointment in that office.

44,034. Do you require any testimonials or certificates for professional qualities?—The applications are nearly always accompanied by testimonials. A man who wrote without any testimonials at all or any references at all would either be disregarded, or, if he seemed to be at all a likely person, he would be invited to send them. There might be a case of a man who simply wrote and applied without sending any testimonials, and when he came before the senior master the senior master would ask him to produce testimonials, and get such information as he thought proper to enable him to make a report to the Lord Chancellor.

44,035. It is entirely open to anyone to apply if he is within the necessary limits of age?—Yes.

44,036. That in fact is the sole qualification that is necessary for application?—There are a great many applications coming from men for one reason or another who obviously would never pass any test—not the sort of men who would be admissible at all. Perhaps it might be useful to say that I think the fact that people can apply must be very well known, for two reasons: One is because there are an immense number of applications, and the other is that the Civil Service Commission send to us from time to time to ask for copies of the paper which gives information to candidates as to whom they should apply to, what are the qualifications, what the prospects are, and so forth. There are such a very large number of those applicants that the Civil Service Commissioners frequently send over to say that they want 100 more copies and so on, so that I think it seems to be pretty well known. At any rate, it supplies far more applicants than enough. One of the personal difficulties of dealing with the situation is the not at all agreeable task of having to tell so many people that there is practically no prospect of getting what, in some cases, it seems they very urgently require.

44,037. Is any publication or notice made with regard to impending vacancies?—Certainly none from the Lord Chancellor's Department. Whether the Civil Service Commissioners have anything of that kind I do not know.

44,038. Do you think it would be advisable that any such notice should be published?—I think as long as the operation is carried on under its present system I should hope it would not happen, because it would add to the number of applicants, though, as I said before, I think it is pretty well known, because we have so many already.

44,039. Is the number of applicants very large compared with the number of vacancies?—Yes, very large, hopelessly large.

44,040. Can you tell us anything with regard to the procedure of the other high officers who nominate?—No, I really know nothing about it.

44,041. That is the procedure as applied to the appointment of clerks?—Yes.

44,042. (*Mr. Boutwood.*) When is this examination held: do you have an examination for an individual man, or do you send up batches to be examined?—On such reasons as may be thought sufficient a man is told that, subject to his getting the Civil Service certificate, he is appointed, and the examination is such a slight one at present that I almost always know (I use the expression "I" because it is really the frank expression to use with regard to these matters) whether the man is going to pass or not. We generally want him at once, because, subject to anything that this Commission may think afterwards, I think our staff is pretty nearly at the minimum, and we nearly always want the man as soon as we can get him; and in nine cases out of ten I tell the senior master he may have him at once, and let him get his certificate as soon as the Civil Service Commissioners can examine him. I have known one or two cases, perhaps more, amongst those appointed by the Lord Chancellor where he has not passed the examination; but the Civil Service Commissioners, upon my asking them whether they think the man was all right, only he made a mess of one of his subjects, and whether he would pass another time, have examined him again, and he has passed; but there have been cases where they

have not passed. There is a subject that is called Digesting Returns into Summaries. I do not know if the Commissioners know what that is, but a man who has been working away most excellently in a solicitor's office until he is 25 or 26, and then suddenly is asked, "Will you please digest a return into summaries," sometimes failed to do it. But the Commissioners, generally when I make inquiries of them, tell me they think that if he looks at the way this thing is done for about a week or a month, if he comes up again in a month he will pass.

44,043. (*Miss Haldane.*) Is it an entirely technical examination, or is it in general knowledge?—It really almost may be described as the three R's.

44,044. (*Chairman.*) It is practically similar to the examination for assistant clerks?—At this moment I had forgotten it.

44,045. (*Bishop of Southwark.*) This really follows from what you said just now. They cannot come in before the age of 20?—That is so.

44,046. For some of these appointments you have had university men before you?—I have.

44,047. And some are people who have had experience in solicitors' offices?—The great majority.

44,048. What happens to a man who does not belong to either of those classes between the time of leaving school?—We have a great many of those, and the sort of answer that is sent is, "Your name will be put down if you wish, but you do not appear to have had any experience in a legal office, and you probably have very little chance against the number of otherwise excellent candidates who have had that experience."

44,049. Are they people that come to you from businesses, or who are they; what have they been doing?—The men I think you are referring to are university men. They are up at college. I suppose the temptation of an immediate 100*l.* a year is more than they can resist.

44,050. The people who apply for these posts are either university men or people who have had legal experience?—I cannot say that. People of all sorts apply, but except those two classes I should say no others were ever favoured; they are discouraged. They are given a discouraging answer, and they are practically left out of account when the time comes for saying who is to be nominated. The time comes from time to time, you see, when you have to take on men for this work. The real truth is that there is not a pin to choose between a great quantity of men from the point of view of the person who has to select which it is to be; he might as well toss up or do anything like that. You may ask, "Would it be a good thing that they should compete amongst one another, and have in that sense 'open competition'?" I have not the least objection. I do not care which comes out top; I should not think any better or any worse of him probably, but should be quite content that he should be appointed.

44,051. (*Chairman.*) That brings us to the point whether there are any modifications that you think desirable in the present system of appointment?—That raises, I suppose, to begin with, the whole question of patronage, does it not?

44,052. Yes. Will you give us your views upon that?—I have a very great dislike of patronage in the ordinary sense of the word, the common sense of the word. I have had, on behalf of the Lord Chancellor, great experience of it, and a more thankless, more disagreeable thing, and a thing more trying to any man who has got anything worthy of being called a heart, it is hardly possible to conceive. Of course, there are a great many objections to it that we know of; I mean the sort of general idea that it is not fairly exercised. But I think that we threshed all that out, did we not, on the Commission before, and I signed the report, and the views that prevailed on that subject there I should not wish to depart from here. I cannot exactly, when speaking as a private individual, pledge myself to everything that I signed as one of the body for whom I had the most vast respect, when we had to sign our report; but I entirely adopt, and think ought to be adopted so far as they can be for the Supreme Court, the principles

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with regard to patronage and any control of it that there may be.

44,053. You mentioned the principles already adopted by the Commission. Shall I be right in saying that those are that where posts require merely general qualifications they should be, so far as possible, thrown open to open competition, and that where, owing to a necessity for professional or technical knowledge or special qualifications of some kind, nomination is to be preferred, that nomination should be exercised by a committee rather than by an individual, and that the Civil Service Commissioners should, as a rule, be represented on that committee?—I am not sure that that is quite an accurate description of our conclusion.

44,054. Will you correct it if it is inaccurate?—I thought that they were not to be appointed by the committee. I think the committee was to submit the names to the Minister.

44,055. Yes, I think that is the more correct description?—It was something more like that. I do not think they were to have the actual appointment. It was either that the Minister had in a sort of way to submit his proposed nomination to their judgment or for their advice, but I thought we guarded ourselves against taking away all responsibility from the Minister.

44,056. Perhaps that is the correct way to put it—that the nomination should be made on the advice of the committee?—Yes, I think that was it; but I am all in favour of something of that kind. I did not quite agree with the recommendation. I went the length very reluctantly of putting a dissenting note in the Commission's Report with regard to the particular recommendation that it was to be a Treasury Committee. I thought it ought to be a wholly independent committee.

44,057. (Mr. Boutwood.) You are speaking of a different committee, are you not?—Am I?

44,058. Your memorandum related to the Treasury section for general organisation—not for patronage?—I thought it was to control patronage.

44,059. (Chairman.) Applying those principles to the present case, do you consider that for the clerical appointments in general open competition would be suitable?—I cannot myself see that there would be a difficulty about it. I think that the question was discussed in the Commission in regard to Mr. Boutwood's department, where there were a certain number of clerks who had to have some sort of legal qualification. I do not see why you cannot have competition between the men who comply with a certain qualification.

44,060. For all the clerks who have had seven years in a solicitor's office to compete together?—Yes.

44,061. Would you think it necessary to make seven years in a solicitor's office an indispensable qualification?—Something of that sort. I think I have already said that I think it would be a pity to make it an indispensable qualification, because it would have cut out some very good men whom there has been an opportunity of bringing into the office.

44,062. Would a good man entering the office at, say, the age of 20, or even an earlier age, have any difficulty in learning the work of the office?—I think not. I think that you will probably have witnesses before you who differ upon that, but that is my opinion.

44,063. So that if that were so there would be no objection to admitting to competition, supposing competition was established, candidates who had not had a period of experience in a solicitor's office?—Yes, I think so, but it seems to me to complicate the method by which the open competition is to be carried on.

44,064. If it is thrown entirely open, would that not be the simplest method?—You must be very careful about your examination. I am not sure that that does not bring us back to what we talked so much about with regard to the Civil Service; whether you do not want to see your man and know something about your man. It is very difficult for a man who has been engaged, as I have in this business so long, not to think that there is some advantage in knowing who is being appointed into the office for which he is responsible.

44,065. Is there anything in the work as compared with the work of an ordinary Government office, say

the Local Government Board, which makes the personal qualifications more important apart from intellectual and educational qualifications?—All the work has to do with the technicalities of the law, I mean that even if the man is doing very little more than copying, to be an intelligent copyist he must know something about the legal document; he will do it better if he knows what the legal document is, and has been accustomed to handle legal documents, and those are the only documents he has to deal with. They all have to deal with that class of documents; they do not merely write private letters and so on.

44,066. Can a knowledge of those documents be acquired in the office?—In my opinion certainly. I have no hesitation about it, but I shall be cross-examined upon that subject.

44,067. (Mr. Coward.) That is to say, that there would be great divergence of opinion about it?—Yes, I have said so already.

44,068. (Chairman.) But your opinion is decidedly that that knowledge can be acquired in the office?—Yes. My belief is, and if I may use the expression I have acted upon it for a good many years, that there is nothing required from a man going up to our 600*l.* a year, to our first class, which a man properly selected cannot learn and cannot do just as well as if he learned it in any other way, and I feel it as strongly as possible up to the 400*l.* I am sure that as regards many of the men we have had it is true of those of the 600*l.* class; but I am quite prepared to think that, subject to not shutting the door absolutely between 400*l.* and 600*l.*, it might be an advantage, I almost go further, I think I may say it would be an advantage to appoint some men to the first class from outside.

44,069. A certain number of them?—Yes. I think it would have two possible advantages, I am prepared at least to be convinced, say by Mr. Coward, that it would have advantages. You would bring some men into the office who have been a long time and have acquired a considerable position and respect in a high-class solicitor's office, which would be in a certain sense new blood into the office; and it would exercise a very good influence upon the question of whether your second class man was fit to be promoted to the first class. As our organisation at present stands there is the power to do that; we do not require any new regulation, we only require that the Lord Chancellor or other appointing authority should occasionally, on being satisfied that there was really no first class man in the second class, go and get a good man from outside. But, of course, with our system there is great danger there, and I personally have worked against it always, because with our system of appointment by patronage as it stands now, I do not think that it would be likely to work very well if, upon a first class vacancy, the appointing authority was to feel that he could appoint somebody straight to it.

44,070. That gives us your opinion on the question of patronage as applied to the lower appointments. Will you give us also your opinion on the same question as applied to the higher appointments, masterships?—Nobody surely would suggest open competition for a man of 45 to 55 who had been for years and years in practice at the Bar or in a solicitor's office. I think we settled long ago that open competition did not apply to that class of man.

44,071. At any rate you think it is clear that competition is out of the question for those higher posts?—Yes, I think so.

44,072. Does the present system of patronage work satisfactorily when applied to them?—I should have thought so. I have reason to think, I do not think I am unwise in mentioning it, that the present Lord Chancellor would be glad to see something in the nature of that kind of control that I thought our Commission meant the Treasury Committee to exercise, so that there was some other authority that had to be satisfied, some body that had to be given, say, an opportunity of reporting as to what they thought of the comparative excellence of the people who were under consideration.

44,073. Applying the principle already adopted by the Commission to that case would it not result in a

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Committee of Recommendation, who should make a recommendation to the Lord Chancellor or to the other high judicial authority whose turn it was to appoint?—I should like to put it a little short of recommendation; report upon the applications, or something like that.

44,074. In the case of masterships, are applications received?—Yes.

44,075. And a list is kept?—Yes.

44,076. And in practice is the appointment always made from the list of applicants, or does the appointing authority make a selection of his own motion outside the list?—I cannot speak for the Master of the Rolls, or the Lord Chief Justice, of course, but I can speak for the Lord Chancellor. He certainly does not consider himself limited to those who have written applying, but I do not think I recollect an instance of a man having been appointed to one of those offices who had not in fact applied. I do not think there is much importance in it, but I think that is so.

44,077. But if the Lord Chancellor thought that among the list of applicants there was no specially suitable person, he would certainly consider himself at liberty to appoint anybody else?—Yes, but then that is not, in fact, the case; there are any number of very excellent men. The real difficulty is to choose.

44,078. If a committee were appointed to report upon the qualifications of applicants, what composition would you suggest for that committee?—I think certainly it would be a good thing to have the Civil Service Commissioner, and I certainly think it would be desirable to have the Permanent Secretary. That we agreed, I think, before; it is not mere egotism my saying it. I think not to give what you may call the permanent head of the department a say as to the people with whom he has to work or over whom he has to exercise control is not reasonable—it is not business. But that is quite enough. I think there ought to be some one or two independent people, if you can get them.

44,079. (*Mr. Holt.*) Generally speaking, for your own department you adhere to what you prescribe as to other departments?—Yes, certainly; I do not say I agreed in every word we recommended; nobody does on a Royal Commission.

44,080. (*Bishop of Southwark.*) I suppose there is no necessity to give this committee that same sort of strength which we recommended with regard to Foreign Office appointments, where it was suggested that it was only upon the recommendation of the committee that the Foreign Secretary should give his nomination?—No, I should rather think it was not. I think it is quite sufficient control if you have the report of such a committee as that. If the Minister were to appoint somebody outside he certainly would have to account for it to the world at large.

44,081. (*Mr. Holt.*) May I read this to you? This is from Chapter VI. of the Majority Report that you signed, under the heading of "The Professional and Technical Civil Service": "We think that steps should be taken to set up a committee in each department which employs professional officers; and that the committee should consist of the permanent head of the department or some administrative officer of high rank deputed by him to act as his representative, together with an experienced officer of the professional section in which the vacancy occurs, and a representative of the Civil Service Commission, preferably a member of that Board. It should be the duty of such a committee, the members of which, while chosen on the principles suggested above, would vary to some extent with the nature of the vacancy to be filled, to select the two or three most suitable candidates, and to submit their names in order of merit, with the reasons for selecting each, to the Minister for his final selection and approval of one of them." Do you agree to that?—I am quite satisfied to have that. That is not exactly what I think best. That goes a little stronger, you see, than what I suggest; it limits, as the Bishop of Southwark said, his choice entirely both, as I understand it, to the people selected by that Board in the first instance for consideration, and also to those whom they finally select to send up to him

44,082. No; previously to that it is proposed that there should be advertisement, and that everybody who chose to answer the advertisement should be considered by the committee as a preliminary stage?—I have no objection to that, but I do not feel as if anything like the last word has been said upon that subject here, because I do not feel sure that the professions would think that that fitted into our organisation. I am not sure whether it would work or not; but I should be quite satisfied with it.

44,083. Even if it applied to you?—Yes.

44,084. (*Chairman.*) As regards the officers with whom the ultimate power of nomination rests, the Lord Chancellor and the other high judicial authorities, do you consider that the ultimate power of nomination should rest with them, or do you think any modification in that respect desirable?—I have always thought for years and years that nobody should have the power of appointment to offices which are paid out of public funds—though it is not technically correct, I think, to say that our officers are paid out of public funds, because they are paid really out of the fees, you know; but they are substantially the same.

44,085. Their salaries are voted by Parliament?—Yes, they are. I have always thought that nobody ought to have the power of appointment who is not responsible to Parliament. The judges, of all people in the world, are those who are not responsible to Parliament, because it is contrary, I believe, to the Rules of the House of Commons that you should even discuss what a judge does. I have always thought that, and I think that my opinion on that subject was expressed as long ago as 1885 in the report of the Chancery Committee, but I am not sure; I have not read it for years.

44,086. So that the practical effect, if that principle were adopted, would be to remove the patronage of the Lord Chief Justice and the Master of the Rolls from them, and to place the ultimate nomination for all these offices in the hands of the Lord Chancellor?—The Lord Chancellor's patronage is already so enormous, so almost intolerably burdensome, that I feel very strongly the objection to that, besides the objection to increasing patronage in the hands of anybody; but that some way ought to be found, say, by means of the committee we have been discussing, which can practically control it—not controlling it in the hands of these judges, but controlling it in the hands of the Lord Chancellor, who is a Minister, as ultimately responsible—if you by some means of that sort can arrive at it, I think it ought to be done. That is my own opinion.

44,087. Would it be possible that those judges should have some representation on the committee of selection?—Yes, it did not occur to me, but I think, if I may say so respectfully, that is a very good suggestion.

44,088. If it were found necessary to introduce open competition for the clerical appointments, that would relieve a good deal of the detail of the burden at all events?—Yes.

44,089. Have you any other suggestions to make with regard to modifications of the system?—I do not know whether you intend to go at some point, and whether this is the point, into the question of men being able to pass from the first class into these greater positions.

44,090. We will deal with that when we come to the question of promotion?—If you please.

44,091. The only other point that arises, I think, on this question of nomination is whether, assuming the system remained such as it is now, it is desirable to alter the standard of the qualifying examination for clerks. What is your opinion on that point?—I think the examination ought certainly to be altered, and I had arrived (I say "I" because it has never been put before the Lord Chancellor) at a practical agreement with the senior master of the Central Office and with the Civil Service Commissioner for an alteration, a great improvement, I think, in the examination, and I think it would have been carried out before now except that I thought it a little inconvenient that an important change of that kind should be made before the matter

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had been under consideration here. Of course the Commission sat much longer than any of us hoped, and so the thing has stood over for I do not know how long, eighteen months or something of that sort; but I do think there ought to be an alteration, and I have got the alteration all ready if the Commission cared to see what stage we had arrived at on the subject.

44,092. Perhaps you will put in a statement as regards that?—Yes. My general objection to the existing examination is that I think it is a very poor affair, not worth much.

44,093. Very elementary?—Too elementary.

44,094. Were your alterations in the direction of making it a more stringent examination in subjects of general education or of introducing technical subjects?—I would make it more technical, really.

44,095. Do you propose also to raise the general educational standard?—I think my notion was that we should do it merely through a request to the Civil Service Commissioners to be a little more severe.

44,096. (*Chairman.*) We now come to the question of promotion. What is the system of promotion?—I think I explained that one peculiarity of the position was that the person having the right of appointment, strictly according to the Act of Parliament, could appoint at once, if he thought fit, to the actual vacancy that occurred; he might appoint direct, for instance, to the first class if the vacancy took place there. But the practice has become almost universal—and I do not think is the least likely to be altered, unless alterations are made here—that there is promotion from the third class to the second, and from the second to the first. The promotions are now being made upon a report of the Committee of the Masters to the Lord Chancellor, and he promotes from the one class to the other, so the ultimate vacancy is consequently always in the third class.

44,097. Does that apply to the other offices as well as the Central Office?—That applies everywhere. I cannot speak positively about the Probate Registry, but I believe that is the case there.

44,098. It applies to the Chancery Offices?—Yes; it applies to the Chancery Offices. That is the practice; there is no regulation in the matter.

44,099. Then in each office is there a committee which attends to this matter of promotion?—There is in what is called the Chancery Chambers, though it is quite a modern institution; but ever since 1887 it has existed in the Central Office.

44,100. In the Central Office is the committee composed of masters?—It consists of three masters. It is called the Committee of Control. The Committee of 1887, whose Report I put in, made a recommendation that there should be a committee appointed of three masters, to be called a Committee of Control; that they should report to the Lord Chancellor every year as to the general conduct of the office; and that they should make recommendations as to promotions when vacancies occurred, and that practice has been followed ever since.

44,101. (*Mr. Coward.*) That would be promotion from one of the lower grades?—Yes; from one class to another.

44,102. Not from outside?—No; strictly promotion.

44,103. (*Chairman.*) And in recommending promotions do they proceed by merit or by seniority?—The theory is that it is by merit; the practice is to take the men in order of seniority and consider whether they are absolutely fit for promotion. The first man that you come to going down the list would, in the ordinary course, be the man.

44,104. As a matter of practice, are men ever passed over?—I think seldom: though in the Chancery Division I think there have been a good many cases of men being passed over. I think that has been largely due to a very strong feeling of my own upon the subject that promotions ought to be watched with very great vigilance in hopes of carrying out a true system of promotion by merit. You do find in the different classes at times men who are certainly not worth more than the maximum salary of the class in which they then are. It is with reference to that I think it is quite possible—and I think I have already mentioned it—that at

any rate as regards the highest class it might be desirable to keep it open to appoint men from outside.

44,105. Why has it arisen that the principle of selection has been applied more extensively to the Chancery offices than to the Central Office?—I think the real reason is that no committee of that kind was appointed in the Chancery Division until comparatively recently, and therefore whenever there was a vacancy and a question of promotion it came up for the Lord Chancellor to say who was to be appointed. There had never been any recommendation with regard to the Chancery side for the appointment of such a committee; that committee arose entirely out of an inquiry that was directed into the Central Office itself, and then the Chancery side is, more immediately than the other departments, under the Lord Chancellor himself who is president of the division, and I think in that way it was more or less natural that the thing should be dealt with directly from the office.

44,106. So that the tendency of the committee is to proceed by seniority rather than by selection?—I think they have a greater tendency that way than the tendency that was exhibited before.

44,107. In the Probate Registry does the Lord Chancellor make the promotions?—No, he has nothing to do with them.

44,108. Is it the President of the Probate Division?—It is entirely done by the President of the Probate Division, and, I believe, but you had better get it from the senior registrar of the Probate Registry, that there promotion by seniority is almost entirely the rule.

44,109. Do you think the system works satisfactorily?—As far as I know it does. I can imagine there being an unwillingness to tell me personally much about the defects of a system which I was supposed to be working myself, and I can quite imagine that there may have been complaints; it is almost impossible to suppose that there should not be complaints. I have known personally of one or two complaints, but they were certainly more of a personal character than directed against the system, and I do not think that when investigated there was found to be any ground for them at all.

44,110. Were those complaints from men who had been passed over?—Yes, men who had been passed over. It is impossible to suppose that the man passed over will take quite the same view as, at any rate, the man who is successful.

44,111. As bearing on the question of promotion, is there a substantial difference between the work of the different classes of clerks—the first, second, and third class?—I think distinctly, yes. The work is arranged according to the classes. I think the difference of class very fairly represents a difference of work. There are cases out of which, no doubt, difficulty arises from time to time. You may get in the same office a clever young man and an indolent older man, and the younger man begins gradually to do the work and the older man is not sorry for it, and things get into an awkward state. A question arises as to promotion, and the younger man is objected to, perhaps, on the ground of his comparatively short service, and he tells you “I have really been doing all the work of the first class the last three years.” That is the sort of statement made. I do not say that that often happens, but it does happen.

44,112. Is it a difference in the actual work done or a difference in the degree of difficulty of work of the same nature?—I think generally a difference in work. They classify the work appropriate to the different classes, but perhaps you would get that better in detail from a senior master. Whenever questions regarding it have come before me, I have always tried to get the thing into that proper scientific position, and not to let the situation arise, which I was referring to before, of their giving the better work to the man whom they discover to be clever regardless of his position and salary.

44,113. Is there any possibility of promotion from one department to another, or does the promotion run entirely in the particular departments?—Practically it runs in the departments. There are occasionally transfers; I do not think they are much favoured, but they do take place, and there is ample power for them

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to take place. There is no technical difficulty in the way at all, and no difficulty arising on account of salaries, because we have uniform salaries everywhere.

44,114. Would it be desirable to have a greater degree of interchangeability between the different departments?—On the whole, I think it would be desirable. Within the Central Office, which is divided, as you know, into several departments, there is a great deal of interchangeability now, and the amount of it has been greatly increased in recent years, and I have not the least doubt it is a very good thing.

44,115. As regards the individual it keeps him much less narrow than if he is engaged all his life in a particular branch?—Quite so.

44,116. Do you consider, as regards the general efficiency of the staff, that it adds to their intellectual calibre if they are moved about from one work to another?—I think so, and it makes a man more likely to be a useful man when he is promoted, and more likely to make it easy for him to be promoted when the occasion arises; the difficulty will not then come up that he has never before heard anything about the work of that department in which a vacancy has occurred.

44,117. You are now speaking, I understand, of the various sub-divisions of the Central Office?—Yes.

44,118. Would that same consideration also apply to interchangeability as between the other offices; for instance, between the Central Office and the Taxing Office?—No, I do not think there is very much to be gained by it except the facility of promoting a good man, who ought to be promoted if possible—where there is no opportunity for promotion on his own side and in the next office there is an opportunity for him.

44,119. Is there much inequality in the rate of promotion in the different offices?—Yes, a good deal.

44,120. I observe that there is a considerable difference in the proportions between the higher and lower classes?—A very great difference.

44,121. I suppose that would produce a considerable difference in the rate of promotion?—No doubt.

44,122. That could be, to some extent, equalised by a greater degree of interchangeability?—I think so. You will probably find when you come to examine the masters, or, say, Mr. Stringer, more importance is attached to technical difficulties with regard to that.

44,123. There is a question which has been already touched upon, but which arises specially on this subject of promotion—the question of access to the highest posts for the general body of clerks. Will you give us your opinion on that?—It is a very difficult question, but I think it is a great pity that the clerks should not be given that access, and I think it should be facilitated by having, possibly, an intermediate grade somewhere between the 600*l.* and the 1,500*l.*—I do not know whether they would be called assistant masters, but there should be established a kind of bridge or an island midway between those two continents.

44,124. (*Mr. Coward.*) With the object that they might pass over the bridge and get to the upper class?—Yes. I have known one or two cases of very good men who came in for some reason of their own who always appeared to be men worth more than 600*l.* a year, who proved themselves very good in the office, and might well, I think, have been allowed to go to a higher post if you can devise one for them. If you think that it is absolutely impossible for any man to do the work of a master or registrar unless he is given 1,500*l.* a year, of course that creates a great difficulty.

44,125. (*Chairman.*) I see in the Principal Probate Registry there is a class intermediate between the first-class clerks and registrars—the principal clerks of seats?—Yes, they are called principal clerks.

44,126. There are six of them rising to a salary of 800*l.* a year?—Yes, they have that intermediate class.

44,127. (*Mr. Boutwood.*) Then in the Central Office you have assistant masters?—Yes.

44,128. And they seem to come under the statutory requirements as to practice?—Yes.

44,129. (*Chairman.*) The assistant masters are appointed in the same way as masters—not by promotion from the staff?—Yes.

44,130. Has it ever been proposed to Parliament to alter that statutory requirement?—I do not think a

clause for that purpose has ever actually been in the House. I thought one had been, but I cannot find the Bill. I have, however, found a draft Bill which collected and consolidated the various qualifications both for masters and for clerks, so that it started by saying “No person may be appointed a master or registrar unless he has,” and then it gave the qualifications which are required in each of the divisions, all put together. In that way you would bring into each division all the qualifications, and a man would be able under that clause to pass from the clerk's grade up to the master's grade of the Chancery Division, which he cannot do now, because he would be able to do it anywhere in the Supreme Court. I was responsible for drawing up the clause years ago. I never saw it again until yesterday. I thought it had been brought in in a Bill, but I cannot find that it was. I think it is perfectly practicable. It was consented to by the Lord Chancellor and Treasury of the day, and I shall be very glad to exhibit this if you think it worth while to look at it.

(*Chairman.*) I think we should like to see it.

44,131. (*Mr. Coward.*) You would probably attract a better class of man for the lower grades if they had a chance of being raised to the upper one?—I think so, and if you had a very very strong efficiency bar, so that a man should only be promoted out of the clerk class if he really was a man whom all those responsible for the matter considered was entirely fit for whatever is the next stage.

44,132. In other words, that you could not get a better man for the post either outside or inside?—Yes, practically.

44,133. Because what you want is the best man for the post?—Yes, you do.

44,134. (*Bishop of Southwark.*) The efficiency bar would work very differently in the legal system from the rest of the Civil Service. We insisted in our previous Report upon the importance of making these promotions at an early stage in the clerk's career, during the period when he would be developing his powers and showed promise of real capacity. I take it that the opportunity offered to a clerk in our legal system is different?—But it would have to work differently, because I do not think any man, certainly under 40 years of age, would be fit to exercise the kind of functions that a master had to perform. He is a judicial kind of person, and if he were ever so clever he would not be satisfactory to those who come before him if his beard is not yet grown.

44,135. (*Chairman.*) Legislation you think would be necessary for the change?—Yes, there is no doubt it would be necessary.

44,136. Then as regards the organisation of the offices, have you any suggestions to make as to improvements in the existing organisation?—Is it not organisation we have been speaking of.

44,137. The question of the higher offices is no doubt a question of organisation, but we would like your opinion on the subject of amalgamation between different offices?—I have always been a very strong advocate of a thing which has been much discussed in legal circles, and that is the amalgamation of the Chancery Offices. It was recommended, I think, in 1885. At the request of the committee which considered the question I wrote a memorandum* on the subject which I should like to put in.

44,138. We should like to see it?—A committee on the Chancery Registrars Office was appointed some years ago. There was some question whether I should sit on the committee, and I said I thought it would be better that I should remain outside, but I would give them a memorandum of what my opinion was. I read it over the other day, and I am still of the same opinion. It is not very different from what they eventually recommended, but it states, in a way in which I should like to state it over again, what my own opinion is on the question of the amalgamation of those offices and what might be done with them when amalgamated, because the question has often been raised as to whether in those departments the number of the

* Vide Appendix XCIII.

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greater officers should be as large as it is as compared with the number of the lesser officers.

44,139. The number of the greater officers is especially marked in the Registrars' Office, is it not?—And in Chancery Chambers. There are 12 masters.

44,140. In Chancery Chambers the number of first class clerks appears to be considerably larger than the second class, and the number of second class clerks appears to be about the same as the number of third class?—Yes.

44,141. In the Registrars Office there appear to be 9 registrars, including the senior registrar, 6 clerks to registrars, 4 second class clerks, and 9 third class clerks. So in both those offices the proportion of higher posts is greater than in the Central Office or the Probate Registry?—Yes, if you enter into the question, you will probably find it a very difficult one, because of the nature of the business done in those offices. So much of it is work either preparatory for or consequent upon the hearing before the judge himself. I think it very likely will be represented before this Commission that that work can only be satisfactorily done by an officer of that very high class, and that what remains to be done is neither so very much in quantity or quality as to need the large number of subordinate people whom you generally find in a department. I think there is a great deal to be said for that, but I think it is carried to an extreme point just now, and that those offices are capable of a good deal of modification. I think I have stated in more particularity how that might be done in the memorandum that I alluded to, and if it were put in and consequently published then other witnesses coming before you would have an opportunity of seeing it and treating it as they, no doubt, would think it deserved.

44,142. Then you suggest that besides some readjustment of the proportions of the higher and lower classes, those two offices, the Chancery Chambers and the Chancery Registrars, might be amalgamated?—Yes, that is another thing; but I think the class of work they do might very well be amalgamated. Mr. Coward may be surprised at my speaking so confidently upon these subjects, but I can quote to him very high authority for my views.

44,143. (Mr. Coward.) I am not myself quite competent to criticise, because I do not think I know so much about these inferior branches of the work?—When you have evidence from the Law Society they will take quite a different point I imagine. They will differ from me and will probably say I know nothing about it. My knowledge is not entirely my own, but I have very high authority for my views.

44,144. (Chairman.) Then will you put in the memorandum to which you have referred?—I think it might be useful for those who wish to go into details.

44,145. Are there any other directions in which you would suggest consolidation of offices?—There is a very old question which may arise here, or later on, about the District Probate Registries. Attempts have often and often been made to amalgamate them with the other district registries of the High Court that were referred to a short time ago, but at present they remain as a separate set of offices. I think you have a list of the District Probate Registries in the estimates.

44,146. In principle you would be in favour of that amalgamation?—Yes, very much. I have done my utmost to get it.

44,147. Of what nature are the difficulties which have prevented it from taking place?—I think the real difficulty in the way is the difficulty of patronage. The District Probate Registries are in the patronage of the President of the Probate Division. I think if they were amalgamated with the District Registries, under the existing system the registrar would be appointed by the County Court Judge, subject to the approval of the Lord Chancellor. I think he ought to be appointed by the Lord Chancellor, who I certainly think would call in the County Court Judge to assist him, because he knows something about the local people. I think it ought to be put the other way, for the reasons already stated about patronage generally—that patronage ought not to remain with a person who is not subject to Parliamentary control.

44,148. Speaking generally, is there a Supreme Court Registry at every place where there is a Probate Registry?—No, they are not at all the same places, but I think at most.

44,149. Has the origin of Probate Registries been partly ecclesiastical?—Yes.

44,150. Does that account for the fact that there are Probate Registries in some comparatively unimportant places?—Yes, because District Registries were not constituted until 1875, and some of the ecclesiastical centres are no longer great legal centres.

44,151. Would it be desirable to readjust the list of probate registries to correspond to the present importance of the places?—I should think it would. There have been one or two instances, but it is a subject on which the President of the Probate Division would really be the best authority.

44,152. Would local sentiment come in largely in a matter of that kind in favour of maintaining probate registries where they exist at present?—I doubt if there would be anything that could properly be called local feeling, only so far as there would be a feeling that local people should be appointed to clerkships in them, and so on.

44,153. (Mr. Coward.) Do you think it would be something like the readjustment of circuits, and should we have great local criticism?—No, I do not think so. It is not sufficiently important for that. I do not believe there would be much difficulty, or that it would arise in many cases.

44,154. (Chairman.) As regards the Taxing Office, how far does that office deal with taxing for the whole of the Supreme Court?—Each department used to have its own taxing office until recent years; that is to say, a case which was brought in a particular division of the High Court went through all its stages from beginning to end in that separate division of the Court. There was some years ago a great deal of discussion which arose because of the different number of cases that were brought in the Chancery Division and in the King's Bench—the one division was crowded and the other was not. One of the remedies proposed for this difference, or one of the explanations rather that were given of it, was that the practice as to taxation differed in the two divisions—that a better scale of costs was given in one division than in the other. I think it was Lord Justice Bowen (Lord Bowen as he afterwards was) who was the person who mainly insisted upon it that that difficulty would never be got rid of unless you had one Taxing Office for all the divisions, and then there could be only one practice in that respect, and a practitioner would not find that he made more money by having the case brought in one division than by having it brought in the other. There was then a committee appointed to consider this, and to recommend how it should be carried out. I have the report of the committee here amongst the documents already mentioned, which I suggest putting in. It was a committee presided over by the late Lord Chief Justice (Lord Alverstone), and they recommended that there should be one Taxing Office for the whole of the Supreme Court for all departments, including the Lunacy Department. That was immediately carried out with regard to the matter which was the origin of it all, and which was of real practical importance, that is to say, the King's Bench Division and the Chancery Division have one common Taxing Office now, where all their taxations are carried out. But there were various things that stood in the way of carrying it further. One was that it was really of very little importance as to the rest. Another was that there were personal difficulties; the taxing master of one department did not wish to be carried over and consolidated with the others, and said he did his business very well and that he had been appointed to this particular office and not to another—things of that sort, and that kind of personal difficulty, which we know always arises when you are trying to make re-organisations, stood in the way. In one or two cases also economy has stood in the way; it was said that the work was being done more economically under the system as it stood than it would be if the office was carried over. There were various reasons, all of them of sufficient importance, it was thought, to make it unnecessary to

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carry out the amalgamation, until all existing interests had disappeared at any rate. That is how the matter stands now.

44,155. That separate system applies to the Probate Division and the Bankruptcy and the Lunacy Departments?—Yes, they all have their separate taxing offices still.

44,156. Do you think the time has now come when unification could be carried out as regards those offices?—I do not see why it should not be carried out, but I do not think it is of large importance whether it is or not, practically. The great object to bring the taxing offices of the King's Bench and Chancery Divisions together was attained.

44,157. Will you now deal with the rules as regards discipline, leave, hours of attendance, retirement, and so forth—matters which in the Civil Service generally are regulated by Orders in Council?—Our regulations upon those subjects, which are not laid down anywhere at present, are very much the same as those in the Civil Service; but they are not absolutely the same, and doubt has been raised as to whether technically the Civil Service regulations could be applied to the Supreme Court. Bills have been introduced once or twice to say that these regulations may be applied to the Supreme Court, but they have not got through. They are instances of what I mentioned at the beginning of the day—the disadvantage of having no one to look after such Bills in the House of Commons.

44,158. What is the actual legal position at present as regards the application of Civil Service Orders in Council to the legal departments?—It is a difficult question. I have had instructions in the course of my time to argue it both ways, and did so entirely to my own satisfaction. But the opinion prevailing was that the Orders in Council did not apply to the legal offices, and consequently a Bill was introduced in three successive Sessions proposing to make them apply, or at any rate to authorise the legal authorities to apply them if they thought fit.

44,159. The "legal authorities" meaning the Lord Chancellor?—It would mean the concurrence of all the presidents of divisions, because each of them is master of his own department, and in order to carry them out equally they would all have to concur in making the Orders. There was a draft Order drawn up at one time applying the Civil Service regulations, as far as they could be made to fit, to our organisation. I could put in that draft Order. It would have been passed if the Bill had been passed, no doubt. The legal authorities all agreed upon it. They were quite willing to have it. There was no difficulty about it.

44,160. Will you kindly put in that draft?—Yes.* There is one great question with reference to it which makes a difference in the legal service, and that is the question of the Long Vacation in the autumn. If the Courts are not sitting to carry on business, there is, of course, much less for the officials to do, and consequently the leave is much larger to some classes of people than it is in the ordinary Civil Service. You could not lay down a regulation with reference to an officer who had been appointed with what he would consider a vested right to his Long Vacation, to say he was to have only 36 days' vacation in the year, or whatever it is in the Civil Service. That creates a difficulty with regard to the matter.

44,161. What is the duration of the Long Vacation?—It is now from 1st August to 12th October, and there are officers who are away all that time.

44,162. Are the offices of the Supreme Court closed during the Long Vacation?—No; there has to be a sufficient number of the offices open to do any business that comes in in the Long Vacation.

44,163. Do the masters sit in the Long Vacation?—A sufficient number of masters sit to do any business that comes in; that is the idea.

44,164. Does a certain amount of business go on before the masters during the Long Vacation?—Yes; a considerable amount.

44,165. (Mr. Coward.) What they call "Vacation business"?—Yes. The definition of "Vacation busi-

ness" has lately been considerably extended under the recommendations of a Royal Commission, as you know.

44,166. (Chairman.) And the work of the Taxing Office, for instance, goes on, but not so much of it?—I think one taxing master sits.

44,167. Is there a difference in the office hours during the Long Vacation?—Yes; I think they are from 11 to 2, or something of that sort, instead of 10 to 4.

44,168. What is the length of the other vacations?—The Christmas vacation is from 21st December to 11th January—three weeks. Then there is a short vacation—only 10 days—at Easter, and 10 days at Whitsuntide. It is a very long time, no doubt, altogether.

44,169. Do these shorter vacations substantially affect the work of the offices? Is the work still done during the shorter vacations?—I do not think it makes very much difference, really.

44,170. Is the practical effect that the greater part of the leave for clerks is given during the Long Vacation?—I think so. Perhaps you will ask the senior master for accurate details of that sort. I should think you would get it more directly from him.

44,171. Then may we take it that the draft Order which you are putting in represents your views as to what the regulations should be to apply to the offices?—It certainly represented my view as approved by the Lord Chancellor at the time that was drawn up. It is a long time ago now. I have read it over rapidly just before coming here, and it looks to me all right still.

44,172. Did that represent any substantial change of the present practice?—Not really very much.

44,173. There is one important point as regards the application of the Civil Service rules on which we should like to have your opinion, and that is on the question of a fixed age for retirement. What is the position at present?—There is no age for retirement. It has often been recommended, but it has never been carried out, and there is considerable doubt as to whether it could be laid down in such regulations as I have been speaking of without some statutory authority to make regulations for the Supreme Court as to, amongst other things, the age for retirement. There is a great difference of opinion as to the power. My private opinion is that there is power to do it, but very high authority has thought otherwise.

44,174. Assuming that there is power, would the exercise of that power involve any compensation to vested interests?—If you forthwith retired anybody who was over 65, which is the age in the Civil Service, that man, having got an appointment for life, I think, would certainly be entitled to compensation.

44,175. What is the present tenure, taking the masters first?—I think the masters undoubtedly have a tenure for life. I think it is "good behaviour," whatever that means.

44,176. And as regards the clerical staff in general, what is the position?—The clerical staff probably really have no tenure at all.

44,177. They hold during pleasure?—I think it is really during pleasure, but that is a tenure disadvantageous for authority really. During pleasure in cases of that kind comes to mean practically for life. It means that you have to say to a man that he has to go because you think he can no longer do his work, and that, of course, makes it very much more difficult for the authority than a state of things such as there is now in the Civil Service, where it is said that everybody shall go at a certain age.

44,178. As regards the clerical staff, apart from masters, is it held by any authority that legislation would be required before you could apply any retirement limit?—I do not think so.

44,179. In that case there is no doubt it could be applied?—I do not think there could be any doubt about it.

44,180. Would there be any question of compensation there?—I do not believe there would be.

44,181. May it be considered that they have been appointed at present on the understanding that they will be subject to an age limit if it be imposed?—No I do not think so. It is a difficult question about which of course very great differences of opinion might be held as to the position of a man who was appointed

* Vide Appendix XCIV.

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to an office where he might reasonably suppose, according to the work of the department, that he would stay, if he was fit for work, until he was 75; whether, whatever was the exact technical position, it was fair to him, he being perfectly fit, to make him go at 65, and whether he ought not to be given something.

44,182. What is the practice at present? Do many of the clerks remain until much beyond 65 years of age?—Yes.

44,183. If a clerk becomes inefficient for the purposes of his duties through age, what steps are taken?—It is a very difficult position indeed. He can only be removed if there is evidence satisfactory to the Lord Chancellor that he is unfit for his duties and ought to be removed. Of course the Lord Chancellor does not know of his own personal knowledge and observation, and he must rely upon the report that is made to him. It is very difficult to get a report upon which you can act with regard to that subject. From humane reasons, from reasons of ordinary human disposition, people are very unwilling to say that their good and faithful old servant is to be sent away and to have a much reduced income.

44,184. (*Mr. Coward.*) As a practical matter it is never done, is it?—Hardly ever.

44,185. (*Mr. Graham Wallas.*) Is there anybody over 95 in the office?—Not that I am aware of—in fact I am quite sure that there is not.

44,186. (*Chairman.*) What is your own opinion as regards the application of a limit of age for retirement?—As to whether there ought to be an age for retirement, I would again refer to the decisions of this Commission with regard to the Civil Service. There are general considerations upon that subject which have led the Civil Service Commission to lay down an age for retirement, and I think that we approve of it on this Royal Commission.

44,187. Do you consider that there is anything in the nature of the legal offices which should put them outside the application of those recommendations?—I cannot conceive that there is. I am not now saying that if it had not been settled with regard to the Civil Service I should say that I thought it was the ideal thing. There is a great deal to be said on both sides about an age limit; but, this Commission having settled that it was the right thing on the whole for the public service, I do not know why it should not apply to the legal service.

44,188. In saying that are you speaking of the masters as well as the clerical staff?—Certainly. I think you will find that in the Chancery Report of 1885 it was definitely recommended, and I think it is recommended for the Central Office too. The most able man we then had in the office, Mr. Jenkins, who was a master, became 70 shortly after the Report of the Committee, and in order to show how strongly he felt that it ought to be carried out, he retired, leaving various septuagenarians still seated.

44,189. In the case of masters would you say the limit should be 70 or 65?—My own feeling is in favour of 70. Taking them as a class, the men who arrive at that position in the legal profession, I think, are generally pretty tough men; they are generally very good physically at the age of 70; and I do not think there is any doubt that for judicial work, if a man retains all his faculties and his strength, the older he is the better he is. So that I think I should be rather sorry to see the age of the masters curtailed to 65; but still I dare say the same thing would be said about the chief Civil servants. I certainly have seen several Civil servants leave departments at the age of 65 when they have got their best work in the next five years.

44,190. (*Mr. Coward.*) The Judicature Commission recommended 72 years as the age?—That was only for judges, I think. My remarks, if there is anything in them, about tough men and the advantage of age apply even more to a judge than to a master.

44,191. (*Chairman.*) As regards pension, what is the position?—In the Act of 1879 you will see there is a section which says that for the purposes of pay and pension the officers of the Supreme Court shall be deemed to be Civil servants of the State.

44,192. So by that clause the ordinary Pension Act of the Civil Service is applied to them?—Yes, and the recent alterations apply to them. It is no longer 60ths, but 80ths.

44,193. Have they added years for the purpose of pension in the case of masters?—They have a clause of their own, and I have not fully considered what is the effect of our recommendations upon that subject. I think this Commission has recommended the getting rid of that clause in the Act of 1859, and that the added years should disappear; but I doubt whether that makes the clause disappear from our Act. I think the power to add years remains. I cannot help thinking that the desirableness of adding years is very much greater in the legal service than it is in the Civil Service. In the Civil Service your man begins much earlier than he does with us. A man is very seldom made a master before 50, and if he has to retire at 65 he will have only 15/80ths of his salary for his pension, which is too small.

44,194. Would you be in favour of retaining the system of adding years for the higher posts, the appointment to which are always made from professional men at a somewhat advanced age?—Yes, but I do not carry in my mind at the moment what we did recommend in this Commission's Report about that, and it may be that our recommendations would cover the case of such people.

44,195. Was not the recommendation to the effect that the probable short tenure should be recognised by adjustment of salary rather than by the granting of additional years for pension?—I do not know how the Treasury look at that. I signed, but I am not sure I should entirely agree with what was recommended about that, and I have great doubts as to what the Treasury may do. It looks to me as if it would be very difficult, with our masters, to adjust it that way.

44,196. Besides the masters, have any other officers of the legal departments any added years?—I do not think so.

44,197. Will you give us your views about the hours of attendance?—There is in the legal offices generally a rule of 10 to 4, and that, of course, is a shorter time than the hours for the Civil Service; and, assuming that those recommendations of the Commission which can properly be applied ought to be applied to the legal departments, the natural result would be 10 to 5 at least. The question is, why not? I believe the reason against it is that the professions that use the Law Courts do not come to the Courts after 4 o'clock, and if the officers generally at the Law Courts were to remain there after 4 o'clock, they would remain there with nothing to do.

44,198. Is there any work to be done after the professions have ceased coming, such as making records and filing, and so forth?—I have never heard a satisfactory answer to that very natural question. I should have thought that with a proper adjustment of work it could be so arranged, and, therefore, when the question is put whether there is any reason why the same rule should not apply there as elsewhere, I say that I think there is no reason.

44,199. (*Mr. Coward.*) There is no solicitor's office in London, I should think, where the office hours are not at least from 10 to 6, and probably a great deal later?—That is perfectly evident; but I mean that you come to the Courts till 4 o'clock, but at five minutes past four you have an appointment at your office.

44,200. I was intending to agree with you. It seems to me that the hours are ridiculously short?—But you do not personally want the legal departments open after four; you want to be at your office. If you ask the Law Society when they are here whether they wish the offices at the Royal Courts of Justice to remain open after four, I think they will tell you they do not care as long as you do not have any proceedings going on that oblige them to go there, because they would say: "We have as much work as we can do for a couple of hours and more at our offices after the Courts rise. It would be very inconvenient to us if you carried on any business there which obliged our attendance." So that raises a consideration as to which I dare say you will satisfy yourselves when you have the senior master and others before you.

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44,201. (*Chairman.*) Are there any other points that occur to you to mention to the Commission on the question of the rules and regulations?—No; I do not think I have anything else to suggest.

44,202. Then we will turn to the County Courts. Will you give us a very general idea of the work of the County Courts?—The amount of work of the County Courts is very large indeed and very various; but if you want an easy way of knowing what the County Courts are like, you should look in the Law List. There is a list of County Courts there and their arrangements which is very clear, and interesting too.

44,203. Is the arrangement that there are circuits, each of which has a judge?—Yes.

44,204. And in each circuit there are a certain number of courts which the judge attends in rotation?—Yes.

44,205. And to each court is attached a registrar with the necessary amount of clerical assistance?—Yes. There are, I think, 55 County Court judges now, and each judge has so many courts. I am not sure if there is any judge outside London who has absolutely only one court, except at Manchester.

44,206. There appear to be 59 circuits?—They are not all in existence, I think you will find. There are 55 County Court judges and each judge has so many courts. You will find that the judge of a big place like Leeds has very little to do except with the court of Leeds, which keeps him well fed. Then you will find close by another judge of a circuit of a more country character, who has perhaps even as many as 10 courts. I think the judge in Mid-Wales has even more courts than that. The principle under the County Courts Act is that every County Court Judge has to sit at the courts to which he is attached once a month unless the Lord Chancellor allows him to sit less. There are some very small places where it is considered that a sitting once every two months is enough; I think there are two or three places where they only sit three times in the year. But the ordinary rule is, with the great majority of courts, that the judge sits at least once a month, and where he has only one court he, of course, sits about two-thirds of the month day by day, just like a High Court Judge.

44,207. Is there a registrar attached to each court?—Each court in each circuit has a registrar. The judge goes from No. 1 Court to No. 2 Court and he finds the registrar of No. 2 Court there.

44,208. Does the registrar do judicial work?—Yes.

44,209. Is he also in charge of the office of the court?—Yes.

44,210. Is a large part of the judicial work of each court done by the registrar?—It is very difficult in the County Court to draw a sharp line between what is judicial work and what is administrative work.

44,211. (*Mr. Coward.*) He deals with undefended cases and that kind of thing?—Yes. He has jurisdiction to dispose of the undefended cases, because, after all, that is only taking a note that there is no defence, and seeing that the man who has claimed has complied, on the face of it, with the ordinary rules of his court in making his claim, and is entitled to get his judgment.

44,212. (*Chairman.*) Does that mean a large part of the business of the Court as judged by the number of complaints?—Yes, there are an immense number of such cases.

44,213. What is the system of appointing the registrars?—The County Court Judge appoints the registrars at every one of his courts, subject to the approval of the Lord Chancellor. He has to send up the name of the man that he proposes, and send up his testimonials, and to satisfy the Lord Chancellor that he has duly considered the situation and the applications, and has proceeded about the business of selecting the man in a proper way, and the man is duly qualified and so forth, but the Lord Chancellor does not enter into the question in the same way as he would if he was appointing the man himself. It is the judge who selects the man and the Lord Chancellor countersigns the appointment.

44,214. Does that system work satisfactorily?—I think so, subject to the question of patronage.

44,215. But your general remarks about patronage would apply in this case?—Certainly. Then there is a special point about the District Registries. It was decided by the Judicature Acts that it would be a good thing to have provincial officers who could do certain of the business of the masters in the provinces so that people might not have to come up to London, and it was decided to establish those officers and to call them District Registrars. It was pointed out that there were the County Court Registrars there, and that the County Court Registrar in a large place—and it would be only in a large place that you would have District Registrars of the High Court—was always a highly qualified man, and a man of experience and position amongst the solicitors there and that he might be the District Registrar. The effect of that is that the District Registrar, although he is an officer, and an important officer of the High Court, is appointed by a County Court Judge. There is a pretty strong opinion held, which is certainly my own opinion, that the Lord Chancellor ought to be put in a stronger position with regard to those who hold the position of District Registrar, and that, while it would be an intolerable burden to have to appoint to all the small courts, where the registrar is the District Registrar of the High Court, he ought to be appointed by the Lord Chancellor subject to all the remarks made about a certain control of patronage.

44,216. If that were done would you propose that there should be a committee of some kind to make the appointments?—Whatever might be settled about the other appointments I think might apply to these, but I think it is undesirable that the district registrars should be appointed by the County Court judges.

44,217. How many of them are whole-time officers?—I cannot tell you offhand how many there are.

44,218. Is it a large proportion?—You could not call it a large proportion. It is only where the salary approaches 1,000*l.* a year.

44,219. Are any of them pensionable?—Those who are "whole-timers" are pensionable.

44,220. I presume the question of the age for retirement applies to them in much the same way as to officers in the Central Office?—I think anybody who is a whole-timer ought to be put under the same rule.

44,221. At present there is no fixed age?—No.

44,222. (*Mr. Graham Wallas.*) Could we have a list of them, and a statement as to their present ages?—I do not suppose there is much difficulty about that. The person who, I think, could carry that out, and also give you a good deal of detailed information, especially on the financial side, as to how these people are paid, which is an important point, is Mr. Bridgeman, who is the Superintendent of the County Courts Department of accounts at the Treasury. He has an army of what are called "examiners" who go down to the different Courts and who look into their accounts, because the system upon which the registrars are paid is that they take fees for the different proceedings in the Court, and they have to account for those fees, some of which go straight into their pockets, and others are paid to the Treasury. In every case the salary of the registrar depends upon the amount of business in the Court, and of course that requires very strict auditing. Mr. Bridgeman will tell you all about how that works.

44,223. We shall get the details of that system from Mr. Bridgeman?—Yes.

44,224. (*Mr. Coward.*) Does that system occur to you as being a satisfactory system?—I can quite understand somebody thinking it not satisfactory. There have been attempts made, I think, to have a different system; that is to say, simply to have paid officers planted about all over the country; but it becomes impracticable in the small places.

44,225. (*Chairman.*) In the small places, I presume, the registrar's work occupies a very small part of the time of a solicitor practising in the locality?—Yes, it is really rather a blue ribbon in the small places, and everywhere except the largest places. You get on the whole, I think, the best solicitor in a place to take the County Court registrarship, because he just adds it to his business; he puts up "County Court Registrar" over his door. The people go there, and his ordinary

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clerks work it out for him. A certain amount of the salary of the clerks is attributable merely as a matter of account to the County Court business; but they are his private clerks, and I do not know that there is any other way of working it.

44,226. What is the system as regards the clerical staff under the registrar?—The registrar finds his own clerks.

44,227. Does that apply in the case of a whole time registrar?—Yes.

44,228. They are the servants of the registrar?—They are the servants of the registrar.

44,229. And paid by him out of what funds?—He has an arrangement with the Treasury which approaches very near to our old friend the “lump sum” that we used to talk about.

44,230. That is to say, he has an allowance for assistance?—It practically comes to that. It is rather a complicated arrangement which I am perfectly capable of explaining, but which would be better explained to you by Mr. Bridgeman. It has its unsatisfactory side, and in particular I should think you probably have had sent to you a representative from the Association of County Court Clerks upon the question whether those who are practically whole-timers ought not to be Civil servants of the State like the clerks of the Supreme Court, and whether they ought not to have pensions, and so forth. Some years ago a committee was appointed to inquire into that, and I have made a note to send you the report of that. Sir David Brynmor Jones was Chairman of the Committee.

44,231. Will you put in a copy of that? Is it a public document?—I can put it in, but perhaps you will ascertain if the Treasury has any objection to my doing so. I can answer for it that the Lord Chancellor has no objection. The question about the District Probate Registries comes in in this connection.

44,232. Your remarks on that subject apply here?—Yes.

44,233. You are of opinion that they should as far as possible be amalgamated with the County Court registries and the registries of the High Court?—Yes.

44,234. We will now turn to the Land Registry. How are the appointments in the Land Registry made?—Those are made by the Lord Chancellor. Practically everything that I have said about appointments in the Supreme Court, as far as he makes them, applies to the Land Registry. It was organised on the analogy of the other legal offices.

44,235. Have you there the three classes of clerks which you have spoken of?—Yes, just the same.

44,236. Is there some technical staff required for questions of survey and mapping?—Yes, and they are organised differently.

44,237. Are they also appointed by the Lord Chancellor?—Yes; though practically the recommendations of Sir Charles Brickdale, I think, have been invariably accepted, there is no doubt that the Lord Chancellor is responsible for the appointments.

44,238. In the Land Registry are some of the higher offices filled by direct appointment from the professions?—Yes, they have been. They have all been appointed for special business. The posts could not have been filled by promotion amongst the clerks, and could not very well be classified with the clerks; and on the other hand they were inferior to the registrars. It really means that the organisation of the Supreme Court, with a stratum of masters at the top, and then a lower stratum of clerks, could not be rigidly applied to the Land Registry; and I think experience has shown that there ought to be a considerable modification in the organisation of the Land Registry. To a considerable extent it has already rather lost that character in which it was originally constituted.

44,239. In what direction do you consider that reorganisation is wanted?—I do not think I have a very strong opinion upon the point. It would be desirable to ascertain what Sir Charles Brickdale thinks about that. There is one observation which applies to the Land Registry, and which really applies to the Supreme Court, and which, I think, ought to be borne

in mind when you are considering the question of organisation, salary, and so forth, and that is, that these offices really pay their way. The Land Registry has power under Act of Parliament to charge fees for the various things that it does—the registrations, and so forth—and those charges are fixed by the Lord Chancellor and the Treasury, with the advice of a professional committee, with a view to carrying on the Land Registry without any surplus, but without any charge to the public. It is the same in this respect as the Public Trustee, whose office has already been before the Commission.

44,240. In practice is that result attained?—Yes, because there is built up a surplus into an insurance fund in case of any mistakes in the registries, just the same as has the Public Trustee. It is an important thing, because when there are discussions with the Treasury as to whether something should be allowed, or something done, it is not a question of placing any charge on the public funds. The department, I think, has a sort of feeling that as they pay they ought to be allowed to have a rather stronger say as to what they want, and the question is whether they should have it or not.

44,241. (*Mr. Graham Wallas.*) Would you apply that principle to the Post Office?—I do not wish to answer in a hurry. I only wish to say that that is the fact in this office which has to be borne in mind—that it is not one of those offices borne upon the Estimates in the usual sense.

44,242. (*Chairman.*) Will you turn now to the offices which are rather outside the general legal establishments. You mentioned in the first place the Assize Offices. What do they consist of?—Every one of the circuits has a head officer who is called the Clerk of Assize, and he acts in the assizes very much as the master would during the sitting of a Court. He is the head officer of the judge, and has certain functions to perform with reference to cases both before and after they come before the judge of assize on circuit. He has two or three subordinates; they all have titles. One is called the Clerk of Indictments and another is called the Associate, and the inferior officer is called the Bailiff. Their establishments were inquired into at the same time as the Central Office in 1887. I was on that committee, and we laid down then what the establishment ought to be, and I think, as I have already remarked about the Central Office, we placed it on a minimum; I should very much doubt if you could reduce it as far as regards either numbers or salaries.

44,243. They are not employed for the whole of the year, I presume?—No.

44,244. (*Mr. Graham Wallas.*) They are not in this list which is before us?—No, they are in the Estimates.

44,245. (*Chairman.*) Their work is going on when the assizes are going on?—Mainly.

44,246. With some preparatory work?—Yes; some work before and some after. If you look at that Report of the Committee of 1887, you will see that it was recommended that there should be some way, when the assizes were not going on, of utilising the assize officers at the Royal Courts of Justice when the judges who otherwise would be on assize are all sitting. You had a number of King's Bench Courts sitting when there are no assizes going on, and when the assizes were going on the courts are empty at the Royal Courts of Justice, and so it was thought that as the judges moved from London to the country and back to London, so these officers who have duties immediately connected with the Court and with the hearing of cases could move about also. But the fact is that there has been a good deal of change since 1887. The circuits are much more distributed than they were then. At that time all the judges sat in London for a certain time, and then all, or nearly all, went away on assizes, and the courts were left almost empty in London. They now distribute the work much more. They keep a larger number of judges continually here, and they are very seldom all here.

44,247. So that amalgamation would now be more difficult?—Much more difficult, and I think it would probably come to very little.

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44,248. The clerks of assize are not pensionable, are they?—I think not. I do not recollect at the moment.

44,249. How are they appointed?—They are appointed by the judge of assize. The rule amongst the judges is this: It is statutory that they are appointed by the judge of assize, but who the judge of assize shall be is a regulation amongst themselves, which is that the senior judge who goes the summer circuit at any particular place appoints to any vacancy in the office of the clerk of assize or any of his subordinates which takes place during the next 12 months.

44,250. Would your remarks about patronage in general apply to these appointments also?—Yes, unquestionably.

44,251. Is there a professional qualification in this case?—For clerks of assize? I forget at the moment.

44,252. (*Mr. Matheson.*) Must not they be barristers?—I am not sure.

44,253. (*Mr. Coward.*) I think they all are barristers?—Yes, they all are. I think an Act called the Clerks of Assize Act, 1869, still on the Statute Book, lays it down.

44,254. (*Chairman.*) The next of the outside offices which you mentioned was the Criminal Appeal Office?—The Criminal Appeal Office, though anybody who went to the Law Courts would think it was simply part of the Central Office, is, technically, not part of the Central Office. It is not, technically, part of the Supreme Court. When the principle of appeal in criminal cases was settled by Lord Chancellor Loreburn a few years ago, the Act constituted a Special Court, which consists of the King's Bench judges, not the other judges, and not the Lord Chancellor. It is a Court of itself, with jurisdiction to hear appeals in criminal cases, and they have, like other courts, a staff. Their principal officer is called the Registrar of the Court of Criminal Appeal. He is another of those persons who may generically be called "masters"; he is a master. At present he actually is one of the masters of the Central Office. He joins his office as registrar to a certain share in the duties of the Central Office.

44,255. The amount of work is small, I suppose?—No, the work is not small at all, and it is of very high importance. The fact is that it is a very economical arrangement. We get a 1,500 pounder for this new office, as far as he himself is concerned for nothing, but he has an assistant registrar in the position of an assistant master, who has 800*l.* to 1,000*l.* The man who is now registrar, Mr. Kershaw, was appointed assistant registrar when the Act was passed, and he is now registrar, and is what is called Master of the Crown Office in the Central Office who is appointed by the Lord Chief Justice. The Crown Office Department is the one to which appeals from magistrates come on what is called the Crown side of the King's Bench Division. It has a quasi criminal jurisdiction already, and so he is a very appropriate person to do this criminal appeal business. Then he has a staff—a very moderate staff—all of whom were taken out of the Central Office. We chose clerks that we knew, and whom he knew, and who he thought were likely to suit him out of the Central Office, and they are on the same scale of salaries, but are appointed by the Lord Chancellor under the Act.

44,256. Have you any observations to make on this office apart from the general observations that you have made on the other offices?—I really do not think so. I think the finances are borne on the Supreme Court Vote, notwithstanding that it is not really a department of the Supreme Court, but it is a convenient thing to do, and I do not know that there is any technical difficulty likely to arise with regard to it.

44,257. The district registrars we have already dealt with in your evidence on the other registrars?—I think anything I had noted down with the idea of saying has already been said. There is, however, one reference that might be useful to anybody wishing to pursue the subject further, and that is Order 35 of the Rules of the Supreme Court, the one which says what the jurisdiction of the district registrar is.

44,258. As regards the Pay Office?—I think I have mentioned that. If it has not been looked into, I should have thought it ought to be looked into.

44,259. It is not under the Lord Chancellor?—No, neither appointment, payment, nor departmental regulation are made by the Lord Chancellor, though all their work and everything is laid down by rules under the Supreme Court Rules.

44,260. As regards the Scrivenery Department, you told us generally what their functions are?—I think you probably will have some representation from them, because they are one of those departments which, not being on the establishment, now wish to be placed upon the establishment, or at least to have pensions and so forth.

44,261. As regards the Lunacy Departments, there are masters and visitors?—They are not really part of the Supreme Court, though in old days they used to be part of the Chancery Division, because their business is to look after the estates, and to some extent after the management of the persons of propertied lunatics. That matter came into the jurisdiction of the Chancery Division in respect of property; that is the real origin of their being dealt with there, I think. There are two masters—one has been quite recently appointed—and there is a staff of clerks, as to which there is a report, which I will put in, which lays down what the staff ought to be and what it is now by authority, including the authority of the Treasury, after inquiry. I do not know that there is any remark to make upon it. I think that is probably all right if you approve of the organisation, which is exactly the same as elsewhere.

44,262. Would there be any advantage in amalgamating the masters' office and the visitors' office?—I do not think there is any advantage or disadvantage. I do not think it in the least matters—they work together—because the business of the visitors, as their name implies, is to go about the country to see that the schemes which have been laid down in the master's office for maintaining and looking after the lunatics are properly carried out, and they make a report every month upon every one of those persons, and make a certain batch of special reports as to those about whom there is anything particular to say; those reports come before the Lord Chancellor every month.

44,263. Would you suggest any reorganisation in those departments?—I do not think I have anything to suggest about them. I do not see why there should be an absolute exclusion in that department, any more than in the Supreme Court, of the possibility of one of the officers in the lower degree rising to the highest. I knew a man who was for a great many years in that office who would have made a most admirable Master in Lunacy. He died somewhat early, but for some years before his death I thought it a great pity that he was not eligible for the promotion.

44,264. (*Bishop of Southwark.*) I suppose the chief clerk has always been one of the first class clerks?—Yes.

44,265. He simply goes up naturally?—Yes.

44,266. (*Chairman.*) Are the functions of the masters in that office judicial?—Yes, very much so. They do a great deal of the same business for the lunatic estates that the masters in the Chancery Division and the judges in the Chancery Division do with reference to certain other classes of estates. It is their business to deal with the administration of estates, only it is the administration of lunatics' estates instead of wards of Court—insane persons instead of sane persons, that is all. There have been various proposals for amalgamation with reference to this office. It was recently proposed, and very nearly carried out, that the office should to a great extent disappear altogether, and that the estates of lunatics should be administered in Chancery chambers.

44,267. Would there be any serious objection to that?—I think there was a recommendation, I am not sure if unanimous, to that effect in the Report of the Royal Commission on Lunacy a short time ago.

44,268. (*Miss Haldane.*) And was not that question considered in the House of Commons?—Yes, I think it was.

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[Continued.]

44,269. And I think it was decided against?—I forget what the result of it was.

44,270. This Commission stated in their report:—“The question of consolidating the whole Lunacy administration in one department was referred to in evidence given before us. This subject received full discussion by the Commission appointed by your Majesty on the Care of the Feeble Minded, and a clause for the purpose of such consolidation was included in the Mental Deficiency Bill lately before Parliament; but not only was the clause struck out in

“the House of Commons, but also a section of the “Lunacy Act which contained a like provision was “specifically repealed”?—That was a larger consolidation than the one I am referring to. It was the union and consolidation of the Lord Chancellor’s lunacy jurisdiction with the jurisdiction that is now administered by what is called the Board of Control in Lunacy which used to be the office of the Commissioners in Lunacy. That is what that report referred to, and not to the question of the administration of estates in lunacy being carried on in Chancery chambers.

ONE HUNDRED AND TWELFTH DAY.

Friday, 12th February 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. JOHN ROBERT CLYNES, M.P.
Mr. CECIL COWARD.

Mr. RICHARD DURNING HOLT, M.P.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Sir KENNETH AUGUSTUS MUIR MACKENZIE, G.C.B., K.C., recalled and further examined.

44,271. (*Chairman*.) At the end of our sitting yesterday we were dealing with the Lunacy Offices, and there were one or two points still remaining to be mentioned with regard to them. Have you any suggestion to make as regards the position of the masters?—I have for a long time myself thought that that office would be better organised if it had only one head, and possibly two assistant masters. At present they work in two branches practically; one master takes half the cases, more or less, and the other master takes the other half. I do not think the one master knows much about what goes on in the cases before the other master, and I think it would be better if, instead of the business being divided like that at the very top, it was divided at the next stage, and there was a real pyramid up to the top. I do not know that that would be a very economical arrangement. I am inclined to think it might be arranged that way without costing more money, although probably there would be three great officers instead of two, because there would be the one at the very head and two assistants below him. I think the head should gather up the knowledge of all the cases on the most important points, and have a general supervision over the whole of the cases, instead of, as at present, the cases being divided between the two masters. I believe myself that on the whole the office would be better organised upon that principle than upon its present basis.

44,272. I see the Masters in Lunacy receive 2,000*l.* a year each?—Yes.

44,273. Is there any special reason why they should be paid on a higher scale of salary than the masters in other offices of the Court?—I do not feel sure that if you had only one, as I suggest, he might not remain at the present salary. I think if there continued to be two the salary which applies to the other principal officers throughout the Supreme Court ought to be sufficient. The Commissioners in Lunacy get 1,500*l.* a year, not 2,000*l.* a year. As a matter of history the case is this: that class of lunatics used to be dealt with in the Chancery Division; they were called, as they are indeed sometimes called still, Chancery lunatics; in fact they were the lunatic wards of Court, just as there still remain sane wards of Court in charge of the Chancery Division. I think in about 1845 the lunacy business was separated from the other chancery business, and

the Masters in Chancery remained in the Chancery Division, but the lunacy business was put in a separate department, and two of the masters, who then were called “Masters in Lunacy,” continued the business in a separate division. The salaries, I think, in those days for all the masters were 2,000*l.* a year, and so the lunacy masters started quite properly with 2,000*l.*, and when reforms were introduced into the Chancery Division, the Lunacy Department lay low, and was not dealt with.

44,274. As regards the Lunacy Offices in general, have you any other observations to make?—There was one thing that has only occurred to me since yesterday, and that is that I ought to have referred this Commission to the evidence that was given before the Royal Commission on Lunacy generally.

44,275. Did that Commission inquire into the legal departments dealing with lunacy?—Yes, and especially into the question as to whether there ought to be an amalgamation of the lunacy departments, and for the purposes of that amalgamation whether the administration of the property of lunatics, which is the most important part of the business in connection with this class of lunatic, might not go back to its old position in the Chancery Division, and the superintendence of the person of the lunatics might not go over to what is now called the Board of Control. All that was carefully considered then, and the evidence about it is interesting. I have a personal reason for making this suggestion, because I gave very full evidence; I gave a memorandum to the Royal Commission and was then examined, and it would save time if anybody were to run their eye over that, instead of encouraging me to waste time now.

44,276. Then the Commission may refer to that?—I would suggest that you should at least refer to that. There were some very good remarks made upon that by Mr. Greene, who sat upon that Commission, and who, until the other day, was one of the Honorary Commissioners in Lunacy.

44,277. We will now pass to the judges’ clerks. Are they personal officers attached to each judge?—Yes, appointed by each judge.

44,278. There is one clerk attached to each judge?—Each judge now only has one clerk; he used to have two.

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[Continued.]

44,279. The salary of each clerk is, I think, 400*l.* a year?—Yes.

44,280. Does a newly appointed judge, as a rule, appoint his own clerk, or does he often continue to employ the clerk of a previous judge?—He nearly always, almost necessarily you may say, takes the man who was his clerk while he was at the Bar.

44,281. What is the nature of the duties that those clerks to the judges perform?—I think it is very difficult to say. I think it very much depends upon the personal requirements of the judge. One judge might conceivably dictate his judgments to his clerk, while another would write them himself. Then there is a good deal of personal attendance, of course, required by every judge. There is a great deal of wearing of wigs and gowns; the clerk has charge of those, and assists his chief to put them on and also to take them off.

44,282. (*Mr. Coward.*) He airs them?—Yes, no doubt. There is one very important piece of business for which the judge's clerk is responsible, particularly in the King's Bench Division. The judge takes notes very carefully of the evidence in trials before him, and those notes are required for the Court of Appeal and for other purposes; the judges' clerks give out the copies of those notes, and also take charge of the judges' books of notes, and there is no doubt that is an important duty and requires great care and great responsibility.

44,283. (*Chairman.*) I suppose these clerks are not pensionable?—No, they are entirely personal officers.

44,284. Has any question been raised as regards their admission to pension?—Yes, it has been raised; I should have thought you would have had a memorial on the subject. Another question has been raised. The question about their being pensionable is, I think, almost entirely one for the Treasury. The Treasury, I think, would probably say that the salary of 400*l.* was a much higher salary than they considered necessary for a judge's private clerk, if it were not that he is liable to the disappearance of his judge after a somewhat limited service, and they therefore give him a salary out of which he may be expected to save money, during the twelve or fifteen years that he generally serves, for his old age; they would probably say that if they were to make these clerks pensionable they must considerably reduce the salary in order to make the pension fund. I should imagine that they might also say that if these officers are to be paid out of public money they ought to be appointed under some of the ordinary restrictions applying to people who are appointed to offices paid out of public money, that is to say, they ought not to be merely the personal appointment of the judge.

44,285. You said that a judge, as a rule, would appoint the clerk whom he had had with him as a barrister?—Yes.

44,286. If the judge had continued his career as a barrister, and had not been placed upon the Bench, his clerk would not have had any right to pension?—No, he would not. I think the clerks of barristers who are in such a position as to become judges, or are likely to become judges, generally earn a considerable amount of money. I think any clerk, if you gave him his choice, as to whether his chief should remain at the Bar or become a judge, would vote for his remaining at the Bar.

44,287. Are you aware whether there are any provident or pension societies among the barristers' clerks?—I think not.

44,288. Would not the natural solution be that voluntary associations should be formed, which might include judges' clerks, to provide pensions?—I think so.

44,289. Does the case of the judges' clerks materially differ, as regards the problem of pension, from that of barristers' clerks, except in the fact that they are paid out of public funds instead of private funds?—I think not; by which I mean to say that I agree with your suggestion. The only other thing is that there has been a considerable movement in favour of making the judges' clerks, after the retirement of the judge, when the clerk ceases to be employed, eligible, or something more than eligible, for clerkships in the offices of the Supreme Court.

44,290. What is your view as to that suggestion?—I have always been very strongly opposed to it, and I think, as I explained yesterday, seeing the way in which we deal with the appointments, promotions, and so forth, of the staff of clerks, it would be very undesirable, because, as the practice now is, the clerks are appointed in the first instance to the third class, beginning at 100*l.* a year and rising to 200*l.*, with the prospect, if they are good men, of their rising further, and that is now quite understood. If they were liable, whenever a judge retired, to have a man put into the second class or even the first class straight away, of course it would cause great dissatisfaction amongst the other appointees.

44,291. (*Mr. Coward.*) And the judges' clerks would be doing work which they had never seen before and had no real knowledge of?—I should like to see their case in favour of this put by somebody other than myself, because, as I have already stated, I am so strongly opposed to it that I could not be at all a good person to state the case for them. I can imagine that your proposition would not be accepted by all the clerks to the judges.

(*Mr. Coward.*) Perhaps not.

44,292. (*Chairman.*) Have you any further observations to make with regard to the judges' clerks?—No.

44,293. Now we will pass to the office of the official solicitor. Is his position the position of a solicitor instructed by the Court to carry out for clients who cannot be represented by a solicitor in the ordinary way, such duties as a solicitor would perform for an ordinary client?—The Court has the power to resort to the official solicitor in such cases as you mention, and, except with regard to wards of Court and with regard to lunatics, I should say it is very seldom exercised. The position of official solicitor is referred to in Order 65, Rule 11, which deals generally with costs, where the official solicitor can be utilised by the Court to make inquiries when they are not satisfied with the conduct of a practitioner before them. The official solicitor is in a very peculiar position. Although he is paid to some extent just like any other officer of the Court, he is allowed to retain his right to practise; the reason of that is that it is thought desirable that the person who is official solicitor should continue in touch and continue his practical acquaintance with the profession. I certainly think that it is a very valuable thing, though, of course, it is anomalous to have a man who is in the public service paid out of public money, and yet is in practice. There is another thing that is peculiar about him, and that is the way he is paid. He is paid a fixed sum—I think 500*l.* a year—for the duties that he could be called upon to perform like any other officer of the Court; but then, with relation to that class of business where he acts really like an ordinary solicitor for a client, he earns his money just like any other solicitor, and he retains so much of it as will bring his salary up to, I think, 1,300*l.* a year; the balance, which is very considerable, he pays into the Treasury. The major part of the salaries of his clerks is paid out of that money which he earns, just as an ordinary solicitor would pay the salaries of his clerks out of the money that he earns.

44,294. (*Mr. Boutwood.*) Out of the balance that he pays over to the Treasury?—He has continually to discuss it with the Treasury, and it has always been the subject of a certain amount of friction between the official solicitor and the Treasury. He discusses with them what amount he may pay to the clerks. That, of course, affects the balance. You may put it either way you like—that he pays them first and pays over the balance, or pays over the balance and gets back a lump sum from the Treasury.

44,295. (*Chairman.*) It is substantially the lump sum arrangement which exists in the case of other solicitors to public departments?—It is the lump sum arrangement over again, and you will find when you call him before you—and I think he will be a very valuable witness, because of his knowledge of the whole business of the Supreme Court, and his knowledge of his own profession—he will probably tell you that he thinks his clerks ought to be put on an established footing. He thinks they do as much work, and as important work and analogous work to that of the other clerks, and

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[Continued.]

that they ought to be put on an established footing. I would suggest that the Royal Commissioners should look upon it in the same way as they have upon the establishment of the other solicitors to public departments.

44,296. As to the staff of the Royal Courts of Justice—that is, the subordinate staff of ushers, porters, cleaners, and messengers—how are they appointed?—The principle which applies to appointments generally applies to them also. Those who are attached for particular duties to certain divisions, such as the ushers and messengers who do duty for the King's Bench Courts, are appointed by the Lord Chief Justice; in the Probate Division, by the President of that division; and in the Chancery Division, by the Lord Chancellor. Where they are doing general duties for the whole place, they are appointed by the Lord Chancellor. Their pay is, putting it roughly, 30s. a week; they begin at 24s. and rise to 30s., and under special circumstances they go up to 35s. by a duty for the King's Bench Courts, are appointed by the Lord Chief Justice; in the Probate Division, by the President of that division; and in the Chancery Division, by the Lord Chancellor. Where they are doing general duties for the whole place, they are appointed by the Lord Chancellor. Their pay is, putting it roughly, 30s. a week; they begin at 24s. and rise to 30s., and under special circumstances they go up to 35s. by a duty for the King's

Those who are called the first class attendants—they are divided into two classes, first class and second class—get 100l. a year.

44,297. Are pensioners largely appointed to those posts?—Yes; ex-soldiers and sailors are very largely appointed by the Lord Chancellor.

44,298. Is there any general understanding between the heads of the divisions—the appointing officers—that ex-soldiers and sailors should have a preference?—I cannot say as to the other appointors, I can only say as to the Lord Chancellor. If you were to examine Mr. Sartoris, the Superintendent, he is a very sensible man, and a man who would give very interesting information to the Commission, I think, upon the employment of all that class of servant, and I think he could tell you what in practice is the proportion of ex-soldiers and sailors who are appointed. The proportion is as large as this, that two or three times the Lord Chancellor has been approached, as I believe the chiefs of other departments have been, by the War Office, largely at the instigation of Parliament, to maintain that appointments of this class ought to be given to ex-soldiers and sailors, and the Lord Chancellor of the day has deprecated being brought into anything like a fixed scheme upon the subject, because the proportion of ex-soldiers and sailors who are appointed upon the staff of the Royal Courts of Justice is so much larger than has been suggested under any scheme that has been put forward, and he thought it was not advantageous to the soldiers and sailors that that should cease to be. If instead of appointing 75 per cent. as I think it is now, the Lord Chancellor were to come into a scheme in which it was said that 50 per cent. were to be appointed, the result would be that 25 per cent. would be appointed from other sources.

44,299. Then the Crown Office remains to be mentioned?—The Crown Office is in many respects a very interesting office, and at present it is held by the Lord Chancellor's secretary, that is to say, I am Clerk of the Crown. The reason why I ventured to suggest it being put last was because in its essence and origin it is a department quite outside the Supreme Court, and independent of the Lord Chancellor. The Clerk of the Crown is an officer of both Houses of Parliament, and he has, in respect of various duties under the Ballot Act with reference to general elections—the issue of writs and so forth—to obey the Order of the House. I have frequently had to attend before the House of Commons, and do what I have been told to do by them with reference to the subject of the issue of writs for general elections, and so forth.

44,300. (Mr. Holt.) I think, if I remember rightly, you appeared when Sir Harry Verney was returned, in consequence of a clerical error in the return to a writ?—Yes, if a "t" is not crossed upon a writ nobody can alter it except the Clerk of the Crown.

44,301. In this case the surname was left out?—Yes, and he cannot alter it without the permission of the House, and he is ordered to attend before the House and bring the writ. It is moved in the House that the writ be altered, and then he goes up to the table, bowing three times, and alters the writ in the way he is directed, shows it to the Speaker and carries it off, because under

the Ballot Act nobody may have physical possession of the writ until it is sent to the Record Office except the Clerk of the Crown. That is a thing entirely apart from the Lord Chancellor, and so I thought that perhaps an office that is so much outside the Supreme Court might not be regarded as one of the legal departments.

44,302. (Chairman.) Has the Clerk of the Crown extensive duties in relation to the Supreme Court?—He has to carry out the appointment of judges, and so forth; he prepares the warrants and the commissions, and the Letters Patent under which they are appointed. The ground upon which the amalgamation with the secretary's office—whether it will persist or not after my time I do not feel quite sure—was made at that time was that the relations of the Clerk of the Crown to the Great Seal are essential; the Great Seal is in the custody of the Lord Chancellor, and the uses of the Great Seal are therefore part of the functions of the secretary as acting for him and conveying his directions. There is no doubt that a great deal of unnecessary going backwards and forwards, and possibilities of delay, and possibilities of mistakes in exceedingly technical matters, and so on, were certainly got rid of by amalgamating the two offices. Then also there was the very important question of economy. I, in fact, at this moment hold the appointment as Clerk of the Crown under the Sign Manual of Queen Victoria, assigning me a salary of 1,200l. a year. As a matter of fact in respect of the duties of Clerk of the Crown I have 300l. a year; so that there is a direct saving in that respect. There is also this position, that there is no doubt, I think, with regard to the various duties of Clerk of the Crown, that you must have a man of position and responsibility, and yet the duties are not such as to occupy anything like his whole time—and very little of his time as it formerly was—but on certain occasions, such as general elections above all others, the duties suddenly become very immediate and arduous, besides being very responsible. It certainly was, I venture to think, an advantage that you should be able to lay your hands upon an officer who held what, if I may without undue egotism say so, was a position of responsibility and importance, to take charge of those matters which could be quite reasonably and well transacted by him under ordinary circumstances, though upon occasions such as general elections it does result in a very heavy strain. The only objection to it that I know is that it is a very heavy thing during that time. As you know, there have been frequent general elections in the last few years. When first I became connected with these affairs an election every four or five years was the outside, but there have been frequent general elections lately, and there is no doubt it is a great strain when that takes place. The strain of a general election, added to the duties and responsibilities in connection with the Lord Chancellor, is for a short period no doubt severe.

44,303. Have you, as Clerk of the Crown, a separate staff?—No; the advantages or disadvantages of amalgamation apply to the staff as well as to the secretary. The staff is actually smaller now, I think I am correct in stating, for the work of the two offices than it used to be in either office before, and the work is done by the aid of able and industrious men satisfactorily all through, and with great labour and difficulty when occasions of stress arise.

44,304. On occasions of stress, such as a general election, do you get temporary clerical assistance to cope with it?—To a small extent. Such business as there is is so technical that temporary assistance is not really of very much use. Another very interesting occasion when there is stress in the office—an occasion of which I was quite unaware when the amalgamation took place—is on the occasion of a coronation. The Clerk of the Crown, as I discovered to my horror on the demise of Queen Victoria, is what is called Registrar of the Court of Claims. I think the very existence of the Court of Claims was hardly in the minds of anybody when this amalgamation took place. What the Court did, and what it was for, hardly any living person knew, because Her Most Gracious Majesty to the benefit of everybody lived a very long time, and it was

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[Continued.]

60 years since there had been a coronation. To my horror I discovered that I was responsible for getting this Court set up, and for everything that was to take place before it. It was a very laborious business then, and but for the help of Sir Edward Hope, who was then Registrar of the Privy Council, I really think we should have come to grief over it. There have been two coronations since, and it is a great strain on the office while that is going on; there is a great deal of technical business, and some questions of great legal importance for those who think it is important who should carry a spur or something of that sort. The end of the Court of Claims is that there is a document drawn up which is called the "Coronation Roll"; that is drawn up by the Clerk of the Crown, who enters in the Roll full details of all the claims and all judgments on the claims that were heard before the Court of Claims. That roll is in the Record Office, and you will find in the Record Office the Coronation Rolls signed by the Clerk of the Crown going back, I believe, as far as Henry II., and no doubt they existed before that.

44,305. (*Mr. Holt.*) Have you anything to do with by-elections?—Yes, everything; and there I absolutely obey the order of the Speaker of the House of Commons.

44,306. Have you anything to do with a by-election in Ireland?—No, except that a return is made by the Clerk of the Crown in Ireland to the Clerk of the Crown in England, and then the return is made to the House of Commons.

44,307. Have you anything to do with a general election in Ireland?—Just in the same way. They send the return over to the Crown Office. The official document, which is the evidence, I suppose, of a man being a member of the House of Commons, is the return made by the Clerk of the Crown, which is made in the form of a great book at the beginning of the Parliament, signed by him, and brought in and laid on the table of the House of Commons on the first day of meeting. It is the first thing that is done, and on reading the names in that book the clerk at the table summons up each member to come and take the oath at the table. That book contains the Scotch and the Irish as well as the English members.

44,308. That meets my point. There is a Clerk of the Crown in Ireland, too?—Yes; a general election is conducted independently in Ireland, but the result of the elections is returned to the Crown Office, England, by the Clerk of the Crown in Ireland. The Clerk of the Crown in England is the only person to whom the House of Commons refers for a correct list of the members of the House.

44,309. (*Chairman.*) That is very interesting. May we understand that you think it a matter of convenience and in the public interest that the office of the Clerk of the Crown should remain associated with the office of secretary to the Lord Chancellor?—I do not think I am prepared to give a very positive opinion about that.

44,310. Do you consider that the convenience of the public and the public interest has been served by the union of those two offices?—I think, quite apart from all personal considerations, it has been advantageous, if in no other way in getting rid of unnecessary steps in matters of formality and getting rid of the risk of slips in those formal matters which, being under the Great Seal, are undoubtedly of considerable importance.

44,311. (*Mr. Holt.*) Is your salary as Clerk of the Crown on the Estimates?—Yes.

44,312. Then you can be attacked in Parliament for your conduct as Clerk of the Crown?—Yes.

44,313. Who would defend you as Clerk of the Crown?—There is nobody whose duty it is to defend. I should have to rely upon the kind offices of some friend.

44,314. That is rather an anomalous position?—That applies to the Supreme Court Vote altogether, except so far as the Secretary of the Treasury has the duty of defending any Estimates that are put before the House. There is nobody who represents the Lord Chancellor and his department in the House of Commons.

44,315. As Clerk of the Crown you are partly the servant of the Crown, partly the servant of the House of Lords, and partly the servant of the House of Commons?—Yes, it is so. I should expect the House of Commons, if my conduct was impugned there, to take a certain personal interest in me, and to defend me as their own officer.

44,316. Is the Clerk of the Crown in Ireland in any way your subordinate?—In no way at all. He is an officer partly of the Crown and partly of the Lord Chancellor in Ireland, just as I am in this country.

44,317. But you communicate with him. Does he get his instructions about writs for by-elections direct from the Speaker, or direct through the Crown, or through you?—Not through me directly, but he has to make his return to the Clerk of the Crown with regard to both Houses of Parliament. With regard to the election of representative peers he makes his return through the Clerk of the Crown.

44,318. Have you, as Clerk of the Crown, anything to do with peers taking their seats?—I have to issue the writ in respect of each peer who comes in and claims to take his seat. He has to get it at the Crown Office. I facilitate that operation by sending the writ up to the Lobby of the House of Lords, but, technically, he has to go to the Crown Office to get his writ.

44,319. Then your position in both Houses of Parliament with regard to writs is precisely the same?—Practically the same.

44,320. With regard to the official solicitor, do the clerks of the official solicitor do any part of his outside work. I understand the official solicitor has an independent practice outside. Does he keep a separate staff of clerks for his private practice and a separate staff for his official practice?—I think I would rather leave that for him to answer when he is here.

44,321. You rather dealt with the position of his establishment, suggesting that it should be put in the same position as that of the solicitor to other public departments?—Yes.

44,322. Would a comparison hold good unless he had a separate staff?—I should say no. It could only apply to those people who at present are wholly paid out of the lump sum.

44,323. And whose time is wholly given to public work?—Yes, I think so. I think it is so with him. I think the clerks whom he requires for his work as official solicitor are at the present time independent of his clerks who do his private business.

44,324. Has he got a separate office for his business as official solicitor?—Yes, entirely. He has an office in the Royal Courts of Justice. His private business is all carried on in a separate office in New Court.

44,325. Has either the Attorney-General or the Solicitor-General any official duties in connection with your department?—No official duties.

44,326. None at all?—No.

44,327. You rather suggested that it might be a good thing if there was a subordinate Minister in the House of Commons to reply for your department?—Yes.

44,328. If that were done could such an officer, in your opinion, be in any way utilised as an assistant to the Attorney-General and Solicitor-General?—Yes, I should think he might be.

44,329. You may possibly know that sometimes when parliamentary business is very heavy, it is suggested that the law officers of the Crown are grossly overworked?—Yes.

44,330. If such an office were constituted, might not it be to the public advantage that it should be combined in some way with the duties of the Attorney-General and Solicitor-General?—I think so.

44,331. The effect of doing that would be that the Attorney-General and the Solicitor-General would not be wholly dissociated from your department. If their assistant were acting both for you and for them it would almost inevitably follow that the Attorney-General and the Solicitor-General would have also to act both for you and for their own department?—I do not feel quite sure about that, I have not attempted to work out any scheme with reference to my suggestion on that subject, and certainly did not make the suggestion with

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any regard to what were the requirements of the law officers of the Crown in the House of Commons.

44,332. You told us that some of your Bills were, as you thought, neglected in consequence of having no representative in the House of Commons?—Yes.

44,333. What sort of Bill had you in mind at the time?—At the moment when I mentioned it I was thinking of a Bill that was drawn containing in it two clauses in particular; one was a clause consolidating the qualifications for officers of the Supreme Court, and making one rule with reference to a point that you appear to take interest in about the passage from the lower ranks to the higher ranks. At present, in some divisions, there is no passage, and in others there is a passage. This was a clause which made the thing uniform throughout the divisions. The other clause was dealing with the question of whether Orders in Council for the Civil Service applied to the Supreme Court or not. That Bill went a certain distance in the House of Commons, but was practically relegated to the class of Bills that may be taken up if there is any time, and there is never any time, and so the Bill drops.

44,334. Was not there a Bill a year or two ago in connection with County Courts?—That is, perhaps, on the whole, the strongest instance of the difficulty that could be referred to. That Bill has been introduced again and again. I think it was introduced for the first time in the same year as the Doctrine of Preference in 1903, and has continued to be slaughtered year after year down to the present time. It had several very important provisions in it, some of them interesting to the Treasury, others of them only interesting to the legal profession.

44,335. Do you think that the failure of that Bill to proceed any further is partly due to the fact that your department is not represented properly in the House of Commons?—I think so. Our only chance of getting it dealt with was the law officers of the Crown having time to deal with it. They naturally give preference to the Bill that each of them is more directly concerned in, or those Bills, as is the case nowadays, that the law officers of the Crown take a very prominent part in—the Finance Bills—before the House of Commons. Of course that used not to be the case in olden days, and they used to confine themselves much more to legal Bills than they do nowadays.

44,336. Now as to the position of clerks of assize. Am I right in understanding that the clerks of assize are appointed by the judge who happens to be the senior judge on the assize at the time the vacancy occurs?—The senior judge who goes the summer circuit is the one who has the right of appointment of assize officers for the rest of the year, until another judge in the next summer is senior judge of that assize.

44,337. Is there any reason to think that those appointments have been frequently, or with suspicious frequency, given to the near relatives of the appointing person?—I do not very much like to answer that question, but I think anybody who wished to ascertain the answer to that question should look at the list of clerks of assize.

44,338. The person who makes such an appointment has practically no real responsibility in connection with it at all. The man who makes the appointment is, so to speak, making it because he happens to be in a particular position on a particular day, and is in no way responsible for the proper conduct of the offices after the appointment is made?—No, he is not responsible.

44,339. You said that the masters of the Supreme Court were persons who had to be in the position of barristers or solicitors who had actually practised?—Yes.

44,340. When you say “actually practised,” does that simply mean that barristers have had their names up on a door, or does it mean they have actually appeared in the Law Courts as practitioners?—I do not know that a legal interpretation has ever been given to those words, and it would be very difficult, I think, to maintain that anybody whom the Lord Chancellor or the other appointing authority had

presented to the office was or was not a barrister in practice. But it is well understood what it means; it means in adequate practice.

44,341. It would be understood that he was a person who had at some time not infrequently appeared and taken actual professional work?—There can be no doubt about that; in fact I should put it higher than that: It means a man who is in active practice at the time.

44,342. In this synopsis of evidence which you handed in I do not see any notice as to where the Divorce Registry occurs. Is that included in the Probate Division?—Yes, the Probate, Divorce, and Admiralty Division is its name.

44,343. You put down “Probate Registry” and “Admiralty Registry” and Divorce is omitted?—There is no separate office called a Divorce Registry; it is done by the Probate officers in the Probate Registry.

44,344–5. And not by the Admiralty officers?—Not by the Admiralty.

44,346. (*Mr. Boutwood.*) When we were considering the Report on the Civil Service, you will remember, we came to some conclusion of this sort—that, on the whole, the clerical establishments were to be filled by some sort of examination or competition, and that, generally speaking, nomination and patronage were to be reserved for professional services. That was the rough distinction which we had in our minds.—Yes.

44,347. Could these third class clerks of the Supreme Court be in any sense called professional officers?—No.

44,348. I wondered whether you would extend the category to cover them?—It is difficult, I think, to be clear on the subject, because I do not think you could possibly call them professional officers, and yet you hold out to them a prospect and hope that they will prove themselves equal to rising to the duties of the first class, where I think they might very fairly be described as professional officers.

44,349. Supposing the first class were separated somewhat in the way you suggested yesterday, would you see any serious objection to bringing the third class under some sort of competition rule?—No, I should like on the whole, to see them made the subject of open competition. It is one of the difficulties, of course, of the whole subject of open competition that you make a fixed proposal of examination and you cannot exercise your judgment about a man except upon the result of that examination. I tried to explain yesterday that while I thought, taking it on the whole, and for the majority of the clerks, the best men you could get were those who had been brought up in a solicitor's office, yet I thought it was desirable to have a certain leaven of a higher class of man brought in. Now, you would not get that higher class of man if you laid down a rule that he must have so many years' experience in a solicitor's office.

44,350. And you do not think that an open competition that had not got that rule in it as one of the preliminary conditions would be quite adequate. Is that the point?—Because I do not see how you would get in my element of vagueness in a system that was rigid.

44,351. I am suggesting to you a larger vagueness. This is conceivable. You could have a competitive examination, and say that candidates must have a certain experience in a solicitor's office?—Yes, that is a limited competition.

44,352. Yes. On the other hand, you could just have an ordinary competition without that requirement and take your chance. Supposing that you had the latter?—To my mind I doubt whether we should get as good men as we get under the system now.

44,353. So you are in the face of these difficulties—if you have your limited competition prescribing experience in a solicitor's office you lose the other sort of man you speak of: if you have the purely open competition you lose the experience in a solicitor's office?—Yes, those are the main pros and cons with regard to that matter. I should be quite willing, as long as I am in this position, to go on as we are now, but I can quite conceive that my successor would rather not have the responsibility.

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44,354. Apart from the opportunity that it gives you of bringing in your university man exceptionally, does the present system give you any considerable advantage?—No, I think not. That is the only suggestion I have to make about it.

44,355. The view is usually held that the nomination and the consequent personal interview are chiefly valuable when the personal qualifications of the man are primary. This does not apply very much to your third class clerk?—I rather wish to deprecate being asked too much about my personal opinions upon those subjects, because I should rather like to abide by my signature to the conclusion that the majority of this Commission have arrived at.

44,356. What happens to a judge's clerk when his judge departs. Of course he loses his post, but as a matter of fact do you know what happens to him?—Different things, of course, happen to different ones. In some cases I have known some judges' clerks who went back into service with a barrister. Some well-known men amongst the judges' clerks have never found difficulty either in becoming a clerk to another judge or to some barrister in large practice. There are others who have no means, and some of them I daresay not much qualification for other work, although their own masters, who were accustomed to them, were quite pleased to have them as clerks; and I think in most of those cases the judge has made some provision for the clerk. Of course there are cases, though I believe they are rarer than one would hope that they might be, where the clerk has been a sensible man and has used the opportunity—and it certainly is an opportunity—of laying by money.

44,357. The Crown can regulate the Civil Service by Orders in Council, but apparently there is some doubt whether it can do the same thing for the legal service. Is that real or supposed inability of the Crown an inference from the independence of judges?—No, I do not think so. It was thought right when the Judicature Act was passed to continue what was the state of things before, and that it should be left to the judicial authorities—chiefly to the Lord Chancellor—to regulate all those things. They are either laid down by Rules of Court, which means, under existing circumstances, that they are laid down by what is called the Rules Committee—which is a committee of judges and others—or they are laid down by the Lord Chancellor with the concurrence of the Treasury. That is statutory. The whole thing was thought out, and there was correspondence with the Treasury, but I do not think it is worth while for the Commission to ask for that correspondence or go into it. The result was, I think, an agreement on both sides that if the Orders in Council were to apply to the judicial establishments, there must be a clause put in with the idea that it would supersede the clauses on the subject in the Judicature Acts.

44,358. You have mentioned more than once the parliamentary representation of the legal offices. It is an easy thing to get hold of somebody and say, "You shall be Minister to represent these people." A difficulty has occurred to me, and I do not know how far it would be a difficulty in your mind. There is one office that I know of (you may remember it) that has a parliamentary representative, who is in no effective sense part of the organisation of the office; he takes no part in the proceedings, and cannot be said in any real sense to be responsible for anything that is said or done, and practically he is a mere mouthpiece of the office for reading out answers in the House of Commons from a type-written piece of paper. Unless you give your man some organic connection with legal offices you might drop into that position, and that would not be a very desirable one?—It would not be an ideal position, but it would be better than the present position. If there were a member of Parliament connected with the Government whose interest it was to take charge of the legal Bills it would be a great help. I imagine there is a certain amount of ambition in every member of Parliament to have a Bill.

44,359. Whose servant is the clerk of assize?—He is a servant of the Crown, whatever that means.

44,360. Who can dismiss him?—The Lord Chancellor, or the senior Judge of Assize.

44,361. And is the Lord Chancellor the person who is responsible for his conduct?—In that way. It has not been the practice of the Lord Chancellor to make a tour of the assize offices to see what the clerk of assize is doing, but if somebody had reason to complain, the person he would write to, if he wished to bring it to any effective issue, would be the Lord Chancellor, and he would make such inquiries as he thought proper.

44,362. Is the salary of the clerk of assize on the Estimates?—Yes.

44,363. (Mr. Graham Wallas.) You told us that in practice it is now general amongst clerks of the Central Office for a clerk to enter at the bottom, receiving 100*l.* a year, and if his conduct is good to go steadily up to 600*l.* a year?—Yes.

44,364. That is to say, the principle which is adopted in other offices that men should be recruited from the beginning either for more routine work or for higher work is not adopted in legal offices?—No.

44,365. The effect of that is that a man from the beginning does a very large amount of purely routine work for many years?—Yes.

44,366. And in the legal offices all the routine work is done by these men?—Yes.

44,367. The effect also would be that he gets to Class I. comparatively late in life?—Yes.

44,368. I see in the Central Office the first four people in Class I. entered the Service in 1863, 1864, 1865, and 1867, which is a long time ago. The next people entered in 1874, 1874, 1879, and apparently the last one appointed went into the Service in 1876. The man who will next be appointed went into the Service in 1877. That implies that it is a very long time before they get to the first class?—Certainly.

44,369. It is only in the first class that skilled work is supposed to be done?—And to some extent, I should think, in the second class.

44,370. But it is the fact that the period during which he is doing skilled work is very short?—Yes. I understand very well what you mean, and I have great sympathy with that view generally, and I think a man who goes on doing purely routine work for a long time is probably not a man who improves much; but I think on the whole, from the way the office is worked now, with a good deal of interchangeability in the different departments, and from the nature of the work that comes in, an energetic man who has got some stuff in him does learn a good deal, and does qualify himself for the work which he would get in the second class, and so, when he gets into the second class, he improves himself still more. I think that is the case, and that perhaps may be because the division of the work is not quite so precise as we have seen generally in the Civil Service. In that way, perhaps, I said, "yes," a little too readily to one of your questions.

44,371. You told us yesterday that it has sometimes happened that an ignorant man at the top of the Service was in fact allowing the better kind of work to be done by a clever man a good deal lower down in the Service?—Yes, I think that sometimes happens.

44,372. And that produces anomalies in the office?—I do not recollect that yesterday I made that observation as applying only to the legal departments. I think my observation was a general one—that I think it is a thing that takes place in the public service generally.

44,373. It included the legal departments?—Yes.

44,374. You can correct that in two ways, either by promoting the clever man from underneath, or telling the clever man to cease to do the advanced work, and insist upon its being done by the older man?—Yes.

44,375. You say you are attempting to correct it. May I take it that you are doing both things, that is, insisting upon the work being done by the older man, and also trying to promote the younger man?—Yes. Where I have the opportunity of speaking upon that subject that is the double direction in which my observations move.

44,376. But in so far as the work in fact has been done by a man you call a clever man, and is in future done by a man you call ignorant, while the symmetry of the office is improved by the change, the public suffers if you insist upon the worse man doing the more

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important work?—It is a very undesirable state of things from every point of view, I think.

44,377. You told us that the proportion of men on the higher scale of salaries—the first to the second class of clerks—differs in various offices?—Yes.

44,378. By whom is that proportion fixed?—The proportion was fixed as long ago as the eighties—1881, 1882, and 1883—in the different departments by the Lord Chancellor and the Treasury at that time.

44,379. And I may take it that it was fixed on the basis of giving a larger proportion of the highly-paid posts to the offices where the work was in fact most important and difficult?—Yes, clearly.

44,380. But both offices, those in which the proportion of first-class posts is large and those in which the proportion of first-class posts is low, are in fact manned in precisely the same way by the men coming in by the same system of nomination and the same salary at the bottom?—That is so.

44,381. So in an office where the work is of great importance you pay higher salaries, but you take no steps to get better men than in those offices in which the work is of less importance?—I think that is not quite so under the existing system. I think if you were to apply the different system that has been suggested that would result. At present, if a vacancy occurs in an office where the business is more important, there is more exactitude exercised in selecting the man than there is in the other cases. For instance, I think if the question was the dealing with a vacancy in the Chancery Division, there is a feeling that you want a man with more technical knowledge in the first instance than if you were appointing him to the Central Office.

44,382. But these posts are in fact appointed by certain high officers in rotation?—There you get into hopeless difficulty, and great objection, I think, to the present state of things.

44,383. Does your experience suggest that if one of the high officers, say, the Lord Chief Justice, has promised his next appointment of a clerk to a certain person, he would, in fact, make any different appointment whether the vacancy fell in this office or that?—I was drawing a distinction really between the Chancery Division and the Central Office.

44,384. I am thinking of the Central Office?—The Lord Chief Justice's appointments with regard to this matter are only in the Central Office. There would be no distinction between the more or less importance of the duties that the man was going to.

44,385. When you get an office in which the men who are ultimately to do your higher and semi-professional work begin their career by a long period of absolutely mechanical work, it becomes of great importance that that mechanical work shall be lessened as far as possible?—Yes, that is an opinion which I think we have expressed on this Commission.

44,386. Has there ever been an inquiry applying to all these legal departments as to whether in fact every possible means is taken to avoid routine labour by the use of more modern methods?—No, I do not think so.

44,387. Do you think such an inquiry would do good?—I think it would be a very useful thing.

44,388. You know the practice in other offices; in fact are these legal offices before or behind other businesses in using such means as typewriters, shorthand, vertical filing, and all modern appliances?—I should not like to express too positive an opinion upon the subject. You will have witnesses before you who will answer that better than I could; but my own opinion is that they are behindhand.

44,389. When you were being asked about superannuation and retirement on account of age, you told us that it was extremely difficult for you to receive information from underneath as to a man's gradual decreasing efficiency—that there was no motive on the part of men who themselves might suffer from old age later on, to report on each other. Is that so?—The tendency of natural politeness and consideration towards so old a man as I is now that they will not say anything to me.

44,390. Although you have no exact information, you think it very probable that there may be old gentlemen in the office whose efficiency has in fact for

a long time steadily diminished?—That, of course, is likely to be the case.

44,391. I want to ask you whether, in your opinion, all the resources of civilisation have been used to meet that situation. Have you any time-books showing whether gentlemen who, presumably by their age, are ceasing to be very efficient, attend regularly, and all the time?—Yes, we have attendance-books just as elsewhere in the Civil Service.

44,392. If a man's sick absence becomes rather important, what happens?—If it is reported, and if it becomes serious, it eventually comes to me; and indeed there has been for many years in the Central Office, and now also in the Chancery Division, an annual report which says whether the health of the department has been good or not; and on that occasion, if anybody has been away for a considerable time, it is stated, and some remarks are made about it.

44,393. Is there any statute which would prevent that annual report being accompanied by a medical certificate from an impartial doctor as to whether the gentleman in question is likely to be able to do his duty with full efficiency?—There is no statute against it. I think it is one of those things that could be prescribed by the Lord Chancellor with the concurrence of the other appointing authorities.

44,394. Then that might be one of the resources of civilisation which has not yet been tried?—Yes; but when you say it has not yet been tried we have no regular system by which it is done, but it is in fact what happens upon the subject being brought to the attention of the Lord Chancellor.

44,395. But there is no routine method by which that comes into operation?—No.

44,396. Has an attempt ever been made to ascertain in the case of a man whose age may presumably be lessening his efficiency, what work he is in fact doing. Suddenly do you ask him: "During this last week what work have you been doing, and is your work worth 800*l.* a year?"—If you are addressing the question to me as acting for the Lord Chancellor, it very seldom would come to such a point that I should send for an old contemporary and ask him what he has been doing during the last week. If I thought things were coming to such a pass as that, I should either write to the old gentleman, whom I should probably know somewhat personally, or to the master, if I thought the master was friendly and considerate towards him, and suggest to him that it would be advisable for him to retire. That is really what takes place.

44,397. But before that you say you have a difficulty in finding out the facts, and I am asking about some possibly improved methods to find out the facts. If you have any doubt about the facts, that would be one way of finding out, would it not?—Yes, it would; but I rely upon the master to tell me. My relations with all the masters are of a most excellent character. I have no difficulty whatsoever in asking a master to come and tell me how business is going on in his division, and as to any person about whom it seems necessary to make inquiry, and I have the most complete confidence in what the master will tell me. But if things ever do come to the pass of having to bring in the Lord Chancellor's absolute power of removal, you require for that something more than a confidential conversation with the master; you require him to be prepared to make a certificate to the Lord Chancellor that in his opinion this person is no longer able to do his duties. There is great reluctance, naturally, and I will go so far as to say proper reluctance, on the part of a humane master to make the certificate that is going to bring down the guillotine upon his old servant.

44,398. But the guillotine in this case is not dismissal from the service with no salary, but dismissal with a pension on the full Civil Service scale, which pension was originally presumably intended to apply to all people whose efficiency was impaired by age?—Yes.

44,399. (Mr. Graham Wallas.) Page 5 of the Return sets out the actual names of the masters and assistant masters in the Central Office. Mr. — has 1,500*l.* a year; is he the son of a judge?—Yes.

44,400. Is Mr. — the son of a judge?—Yes.

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44,401. Is Mr. — the son of a judge?—Yes.

44,402. Is Mr. — the son of a judge?—Yes.

44,403. Is Mr. — the cousin of a judge?—He is certainly a near relation of a late Lord Justice, but not a son.

44,404. Mr. —, is he the cousin of a Lord Chief Justice's wife?—I do not know.

44,405. Mr. —, is he the brother-in-law of a Lord Chief Justice?—Yes.

44,406. That accounts for seven out of the nine. As to the other two, do you know whether they are so related or not?—No, I do not know.

44,407. I have not taken the clerks of assize, or a number of other officers, the names of whom seem to suggest to me that I might find the same sort of relationship. These appointments are made by a system of rotation of the appointing parties?—There is an important qualification about that at present. I mentioned yesterday that there was a separate rotation for these greater persons, and a rotation for the lesser persons. It used to be that these appointments were made by the three appointing authorities alternately, but when that alteration of the Taxing Department was made, and all the taxing officers for the two divisions were brought into one place, there was an agreement made, that is really only an agreement from judge to judge, and does not bind successors, that the Lord Chancellor would make all the appointments in the Taxing Office, and that the Master of the Rolls and the Lord Chief Justice would alternate in the Central Office. So just now those appointments in the Central Office are being made not by the Lord Chancellor.

44,408. Is it in your judgment the case that the whole system of rotation is necessarily based upon the conception that the power of appointing is a privilege and not a personal duty?—I do not think anybody who has had to do with the thing as long as I have would call it a privilege.

44,409. (*Chairman.*) The rotation arrangement does not apply to any offices now, except the Central Office and the Taxing Office?—That is so.

44,410. (*Mr. Graham Wallas.*) I want to turn to some of these representations which we have received. I have a statement here called "Some criticisms of the 'present County Court System,'" by Mr. C. J. Fletcher, who is apparently an official in a county court. He refers to the fact that the registrars are paid by results, and he says they could not but be influenced by this circumstance, "though entirely sub-consciously, 'in their attitude towards such questions as judgment 'summonses and imprisonment for debt.'" The plain English of that statement is that certain of the King's subjects are imprisoned for debt owing to the existence of this system, and would not be imprisoned for debt if this system did not exist?—I daresay you can arrive at that. It does not impress my mind very much.

44,411. The lay public are somewhat sensitive on the question of the liberty of the subject?—Yes, indeed; and quite rightly.

44,412. And it is believed that imprisonment for debt on its present scale is rather a serious item in our national life?—A most abominable system. I should like to take the opportunity of saying that I think there is a good deal of truth about the fact that it is payment by results in the district registries, and that is an unfortunate feature; but I think, when you have examined other people, if you do examine them, with reference to the County Court system, you will see that it is almost impossible to suggest, with regard to the smaller courts—which are, of course, the vast majority of courts—any other system.

44,413. I come now to a statement as to the establishment of District Probate Registries, by the District Probate Registries Clerks' Association. These gentlemen suggest a system of amalgamation?—I dare say.

44,414. These gentlemen in the District Probate Registries, speaking apparently about their own members, say: "The present conditions of service in the 'District Probate Registries press very heavily on 'many of the older men, who become gradually unfitted through age or infirmity for the full and 'proper discharge of their duty; and there being now 'owing to the later decision of the Lords of the

"Treasury as to pensions) no provision for them upon retirement, they reasonably endeavour to hold their positions until death. This is very detrimental to 'the Service.'" If these gentlemen, speaking of themselves, say that they become gradually unfitted through age or infirmity, and that that fact is detrimental to the Service, that again, from the point of view of the public, is somewhat serious?—Yes, undoubtedly. I think those gentlemen can hardly have considered the effect of their statement.

44,415. On page 274 of the Estimates we have a statement as to the Clerks of Assize, who apparently get from 800*l.* to 1,000*l.* a year?—One gets 1,000*l.* a year.

44,416. But we have neither there nor in this other list their names. Do you know any way in which the Commission could get their names?—Their names, I think, must be in the Law List.

44,417. (*Mr. Clynes.*) Is there not some committee now sitting on the question of the employment of soldiers and sailors?—There is a War Office Committee, I think.

44,418. You do not know whether the gentleman you refer to as having considerable information on this matter has given evidence before that committee?—I was referring to Mr. Sartoris, the Superintendent of the Courts. I do not know whether he has given evidence. He may have, if there is a committee sitting.

44,419. In the case of men being off duty for a considerable time through sickness, do the same conditions apply to men in legal branches of the Service as in the other branches of the Civil Service?—Practically the same.

44,420. Their salaries are continued in full?—Yes, up to a certain time. I think six months.

44,421. There is a limit?—Yes, practically there is a limit. Though it is not laid down in any regulations, it was provided for in the draft regulations which I referred to yesterday, and of which a copy will be put in, and my recollection is that in those draft regulations it is *ipsissimis verbis* with the regulations under the Order in Council.

44,422. (*Mr. Coward.*) With regard to the hours of attendance of 10 to 4, in such places, for instance, as banks especially, they have office hours of 9 to 4, and then the office is closed, and you would say the public are no longer admitted and do not go in, but the people who are there do not trot off immediately 4 o'clock comes; they have their other work to do?—I fancy that the great swell of the bank does trot off at about 4 o'clock.

44,423. Not always, but still he is not so regular in attendance as those beneath him, and I do not think you could quite compare a master of the Court, for instance, with Sir Felix Schuster as an illustration. Do you think that it might not be advantageous for the hours to be a little lengthened?—I think I said yesterday that I saw no reason why what was considered a proper day's work in the Civil Service generally should not be considered a proper day's work in the legal departments.

44,424. There is really no reason that one can see against it?—I see no reason.

44,425. (*Miss Haldane.*) You signified, I think, that the Permanent Secretary to the Lord Chancellor should correspond very much to, say, the Permanent Secretary to the Foreign Office?—Yes.

44,426. And then that there should be an Under Secretary in the House of Commons, something like the Under Secretary for Foreign Affairs?—Something of that kind.

44,427. He would be political, of course, and would change with the Government?—I think on the whole it would be best that he should be political, because if he is political he will have more influence with the Government of the day in giving facilities for the Bill in which he is interested in the House.

44,428. Do you think there would be work for him?—I think we should give him plenty to do.

44,429. Going back to the lunacy question, is it not the fact that the Lord Chancellor also appoints to the new Central Board, or makes certain appointments?—Yes, he appoints the legal members of the Board.

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Under the statute there have to be a certain number who are lawyers with qualifications laid down of so many years' practice, or it says they must be lawyers.

44,430. Then naturally he appoints no women there?—He cannot appoint a women lawyer now because women are not admitted to the profession.

44,431. I think there are women on the Board?—Certainly.

44,432. But they are not appointed by him?—Not appointed by him.

44,433. With regard to the visitors in lunacy, I understand that the lunatics who come under this department are lunatics with property. Are some of those lunatics women?—I believe there are more women lunatics than men.

44,434. Are there any women visitors?—No.

44,435. Has it ever been considered whether there should be any women visitors?—I do not think so. The number of visitors is very small; there is one lawyer and two doctors. For a lawyer, at present, there could not be a woman visitor, because women are not admitted to the legal profession. That is not the case with the medical profession, who have lady doctors.

44,436. Has it ever been considered whether a lady doctor might be usefully appointed a visitor?—No, it has not, but there has been no opportunity to consider the question for a very long time. I think Sir James Crichton Browne was one of the visitors before I became secretary, so that his vacancy at any rate has never been considered. Dr. Nicholson was appointed in my time, but that also is a very long time ago, so there really has not been an opportunity, except in theory possibly, of considering it, and I have never heard it suggested.

44,437. Is their whole time occupied in this work?—They are what would be called whole-timers, but how many hours a day the work occupies them, it would be very difficult to say. On one day a man may make a long journey, and perhaps go to a place where there are a great number of patients to be seen; another day may be a very short journey, and so on.

44,438. Are they pensionable officers?—Yes.

44,439. (*Chairman.*) I see Sir James Crichton Browne was appointed in 1875, and Dr. Nicholson in 1896?—Yes.

44,440. (*Mr. Shipley.*) Who appoints the doctors?—The three visitors are appointed by the Lord Chancellor.

44,441. (*Miss Haldane.*) Does the Lord Chancellor have charge of the property of women lunatics in Scotland, or only in England?—Not in Scotland.

44,442. I suppose we shall hear later whether they are dealt with by the Scottish Board of Lunacy?—I think they are, but my evidence is of no value on the subject.

44,443. I want to know your views on the question of the employment of women in respect of the staff generally. Do you think that there are any offices which might suitably be held by women, and which have not yet been open to women in the legal departments?—I should have thought that in the Central Scrivenery Board women might certainly be employed. With regard to the other offices, I think members of the Commission know that I might be almost described as a whole-hogger upon the subject of women. I only see one difficulty with regard to admitting women into the offices of the legal departments, and that is that the whole business is connected with the law, and that the two branches of the profession of law do not admit women: so that in that respect your legal departments would not be in harmony with the practitioners who come before them, and if there is an objection or a difficulty about women being in the practising professions, I think it must at least influence the consideration of whether they could be admitted into the departments which are doing the same business from the other side of the table.

44,444. You know there is a movement towards women obtaining admission to the legal profession. Supposing that were attained at a future period, do you see any objection to women being eligible for posts in the legal departments?—Not the least. I should

expect to see Mistresses of the Supreme Court in due time.

44,445. As you know, in the office of the Public Trustee, which we have already considered, the employment of women was reported very favourably upon?—Yes. The Public Trustee, I think, has as many women in the office as men.

44,446. I hear he has increased his numbers very much since we had evidence from him?—I do not think there are any women in high positions there, though I believe he, like myself, is a believer that there is no limit to the possibilities of employing women usefully in departments of that kind.

44,447. Is typing very much used throughout the departments? I see typists are mentioned in certain departments and not in others?—My impression is that it is very little used, and I gave an answer to that effect to Mr. Graham Wallas; but I must not be taken as being prepared to answer precisely.

44,448. Judging from the returns which we have, very few typists are mentioned, and it struck me that there might be very suitable and proper openings for more women typists in different departments?—I think that is very likely.

44,449. There are certain women attendants appointed by the Lord Chancellor and the Master of the Rolls alternately in the Royal Courts of Justice?—Yes. Provision has to be made for female witnesses who may be kept waiting a long time, not knowing when they will be called into Court; and when the staff of the Royal Courts of Justice was established and the present Royal Courts of Justice were built, we thought four women ought to be there so as to look after the witnesses while they are kept waiting.

44,450. I wondered why it was only in the Royal Courts of Justice. There do not appear to be any in the other Courts, judging by our returns?—What other Courts do you refer to?

44,451. The County Courts, or the Divorce Court?—The Divorce Court is in the Royal Courts of Justice. There is also the Bankruptcy Court sitting in Bankruptcy Buildings, and I do not think there is any female attendant there, but I am not quite sure.

44,452. With regard to the messengers, you will remember our recommendations about the pensioner messengers in our previous report?—Yes.

44,453. Would you approve of those recommendations being carried into effect with regard to certain of these messengers?—I can see no reason why any difference should be made.

44,454. It was said: "We think the Treasury should insist on vacancies in the existing establishments as they arise being filled from this force, except in exceptional cases, on sufficient reason shown in each case." Would you agree to that?—I see no reason why that should be excluded, though under existing circumstances the Treasury could not insist, because there are these various appointing authorities. It could only be put, I think, in the form of a recommendation—supposing the appointments are left as they are—from a high authority like this Commission that it ought to be considered.

44,455. That that should be the system on which messengers should be appointed in future.—Yes. As I tried to qualify some of my other answers, I do not wish to say too much about my personal view with regard to these matters. I put my name to the recommendation of the Royal Commission, and I see no reason in the nature of our Service why that should not apply to it. I do not feel quite certain at the moment, not having considered it before, as to what effect that might have upon our Service. If you examine Mr. Sartoris you might, perhaps, see if he thinks there is anything in the conditions of our Service that would make the recommendation of the Royal Commission inapplicable.

44,456. (*Sir John Kempe.*) I should like to supplement Miss Haldane's first question, as to your proposal that an under-secretary should be appointed to represent the legal departments in Parliament. I do not quite gather from your answers to Mr. Boutwood whether your idea is that this officer should sit in the offices of the Supreme Court?—No, I do not think it is necessary for him to have anything to do with it. I think he

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[Continued.]

should merely be a representative in Parliament, whose duty it would be to take charge of questions or Bills relating to the legal departments, and I do not look upon him as necessarily a salaried officer at all. I think it would be something that would be given to the class of persons who do undertake that sort of work now without salary, but if anybody wished to give him a salary I should not like to raise any objection. I hope it will not be upon the estimates of the Supreme Court, because my interest is to keep them down.

44,457. His duty would be confined to departmental questions?—Yes.

44,458. He would not touch the administration of law, of course?—No, not in that way.

44,459. That means that the Attorney-General and the Solicitor-General must still answer in the House of Commons on questions of administration of the law?—If it was any question which would be addressed to the Lord Chancellor himself, if he could sit in the House of Commons, I think it would be the best way that this member I refer to should get his instructions from the Lord Chancellor as to what answer he should give (which is what an under-secretary now does with his chief in any of the other great departments), and answer accordingly. You see a difficulty arises when a question is asked in the House of Commons. There the Attorney-General is asked the question, and he comes and consults the Lord Chancellor. They probably agree as to what they should say, but the Lord Chancellor cannot say to the Attorney-General: "You are to say so and so." We want somebody who is more in that position. There is a material difference between the man whom you can ask: "Would you mind saying so and so; that is what I should like you to say," and having a subordinate who comes and says: "Please sir, what am I to say?"

44,460. Then he would do no more than the law officers can do now between them?—There is that difference, a difference perhaps a little difficult to describe, but one which is easy to feel between a person who is your officer, and to whom you can say: "Do this," and he doeth it, and a person who is only kind enough to take the trouble for the convenience of the House of Commons to answer the question.

44,461. The same thing, of course, applies to many other departments now?—Does it?

44,462. To minor offices, such as the Record Office, the Charity Commission, and so on?—No, not the Charity Commission; they have a representative. I do not think you could ask that everything that may be called a department should have a member of the House of Commons to itself, but the legal departments and the whole jurisdiction of the Lord Chancellor is a very great affair, and would correspond to the Foreign Office and the Home Office and the great departments of the State. It is the only great department of the State which has nobody to speak for it officially and as a matter of duty in the House of Commons. That is the double disadvantage—that the Lord Chancellor has no officer of his own to say what he wishes said in the House of Commons, and the House of Commons has nobody whom it can get at with regard to the offices. If a question is more or less critical or important, the answer is given by the Attorney-General, or the Secretary to the Treasury, or whoever it is, and they communicate with the Lord Chancellor.

44,463. Is not there this difference between the legal department and the ordinary administrative departments of the State, that, as a general rule, it is the subject-matter which the department administers that has to be looked after in the House of Commons and not the department itself. In this case you propose to have a representative to answer for your department only, and not the subject-matter, which is the administration of the law?—I think where any question could be properly answered about the administration of the law in the House of Commons there is no reason why this suggested representative should not answer it.

44,464. Early in your evidence you said that the anomalies which formerly appeared in the departments are now completely worked out. I noticed in the estimates there are a great many notes still to this effect: This office and salary will be reconsidered on a

vacancy," repeated continually throughout the estimates of the Royal Courts of Justice. There are about 20 or 30 offices to be reconsidered on a vacancy?—I do not think those cases apply to a person appointed before the Judicature Act. I think they are cases of more recent appointments. It generally arises in this way: The Treasury consent to what is recommended, but reserve to themselves a right of discussing the subject over again when next there is an opportunity. In that case a note of that sort would be put in.

44,465. Then each of those offices represents in fact some special duty?—Probably. It is very difficult to say offhand.

44,466. They are offices which may not be continued on a vacancy?—No. Probably a note would not be put in there without the consent of the Lord Chancellor, and therefore it would mean that the Lord Chancellor and the Treasury both agree that whenever a vacancy occurs this matter is going to be talked over again. Being a note on the Estimates it generally arises over a question of money, though there may be other considerations; there may be some intention of putting the duties elsewhere, or putting other duties upon them on a vacancy.

44,467. It sometimes refers to numbers on the staff?—There may be, but it may mean that the Treasury have consented to the arrangement on condition of it being discussed again on an opportunity occurring, or, at any rate, it may be that the Lord Chancellor has said—as it probably would be a question of a reduction coming from the Treasury—"Well, I agree to a reduction on this occasion, but if on the occasion of a further vacancy other duties are added to the office, I expect more money to be paid, and therefore I reserve my right to raise the question again on a vacancy"; but it may come either way.

44,468. I did not quite gather from your answer to Mr. Wallas whether you thought on the whole the system of uniformity of scales of salary for the whole of the Supreme Court has worked out satisfactorily. I see in the various memorials we have before us almost every department complains and gives some different reason. Therefore the system seems to operate unequally?—I have not seen these representations, and I do not know on what grounds the different clerks may put it.

44,469. I should have thought that if the system of the same scale were working well, there would be one memorial from all the different offices taking up the same complaints, but they are all different?—I do not know anything about the documents you refer to. There was a great deal of personal difficulty in establishing these scales when they were established 30 years ago, because we had to force the existing men into our new system, and it was sometimes rather difficult to do so.

44,470. I understood from you that the duties are such as could be mastered by a man of ordinary ability?—Yes, I think so, speaking in a general way.

44,471. Therefore there is no occasion to look out for special attainments when you first appoint to the office, as they could be acquired as time goes on?—Yes; on the whole and in the majority of cases I think it is desirable that the man should have had previous training in some legal office; but I do think it is better to have a leaven of a higher class of man—that type of man who does not allow himself to be too much crushed by routine, to which Mr. Graham Wallas alludes, but a man who, if he is in an office before very long absorbs whatever there is going about. I do not think that in our departments there is great difficulty in a man doing that. I think he has opportunities which are not afforded to him in many of the departments of the Civil Service which have come under our observation.

44,472. I notice before the Committee of 1886 some of the witnesses were asked as to the possibility of a man getting up the work of almost all the different departments, and Mr. Gardiner, whose evidence I read specially, was very clear that the men ought to be interchanged between the offices so that any man could pick up the duties of any one of the offices?—I had forgotten he said that.

44,473. Would the same thing apply now?—That I think would apply now, and at present, under the

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[Continued.]

administration of the existing masters, interchangeability is going on to a great extent, and I believe with great advantage.

44,474. In that case, would there be an objection to the same classes of men being put into the legal offices as are put into the rest of the Civil Service?—I see how you arrive at that, but I can only say that I think the most desirable class of fellows—the men who are most likely to profit and be able to learn by going about from one department to another—are those who have from the earliest practicable age been engaged in that class of business in other legal offices.

44,475. Do you have a probationary year?—Yes.

44,476. Do you reject after probation?—I do not recollect any case of a man being rejected after probation.

44,477. Or any case of a man you would have wished to reject?—In that way it may almost be called a dead letter, not because it is actually dead, but because I do not think we have ever had a case where it was necessary to reject a man.

44,478. (*Mr. Shipley.*) A question or two about your staff in the House of Lords. Do you have several clerks working under you?—Very few.

44,479. Are they overworked?—Certainly very much overworked when crises I have referred to, like a general election, take place. If you examine one of them I think they would say that I gave them sometimes an unreasonable amount of work, but I do not think they would put it at all in the form of complaint—I do not think there is the smallest spirit of that sort.

44,480. About how much of their total work is due to ecclesiastical patronage?—That is the work of the private secretary. The ecclesiastical business is divided into two parts: There is what is called the patronage—that is, the question whether you shall appoint the Rev. Brown or the Rev. Jones. There are also a large number of questions that may be called permanent questions, relating to the exchange of livings, dealing with the glebes, releases, and things of that kind, which require the Lord Chancellor's approval—questions of every sort and kind regarding the livings which are in the gift of the Lord Chancellor—that are not questions depending very much on the personality of the clergyman, and are not in any sense spiritual questions but temporal questions, which are in the permanent department. Before my time the secretary, who was called the Lord Chancellor's Secretary of Presentations, was an officer whose position was regulated by the statute of, I think, 1852, and his salary was regulated by that statute, and he had duties to perform which were personal to the Lord Chancellor, and also the other class of duties that I refer to. All those permanent and statutory duties were transferred to the Clerk of the Crown when the alterations in the department were made, and those duties are carried on under my superintendence by a small staff of clerks.

44,481. How many livings has the Lord Chancellor to present to?—I do not remember at this moment—hundreds.

44,482. I think they are most of them pretty poor ones?—Mostly very poor. Anybody who talks about ecclesiastical patronage requires to consider what he is talking about. The ecclesiastical patronage of the Lord Chancellor is a great duty to find clergymen who are fit and proper persons for very poor livings. I have nothing to do with patronage, absolutely nothing.

44,483. Is not there a great deal of waste of the judges' time because they cannot find out very closely how much crime there will be at certain assizes? For instance, last month the judge at Cambridge was quite unhappy because his time was wasted owing to the small number of cases to be tried?—It is very difficult indeed to estimate the amount of time. Every kind of device has been tried in my time to get over the difficulty. The present system practically is that an average is struck of the number of days that the business of a circuit is found to require, and then there is a complete scheme for the assizes founded upon that principle. Then, before a circuit is going to take place, the judge consults with his clerk of assize (his principal

officer), who has got all the information about what cases have been up to that time set down, and on the basis of that he has power to alter the number of days. But he is subject to the habits and the convenience of the circuit town before and the circuit town afterwards, and it is really quite impossible for him to tell whether on the one hand he may have a day or two to spare, or, on the other hand, whether he may have to sit day after day from 10 o'clock in the morning till 8 or even 9 o'clock at night (which is very bad for him and very bad for everybody else); or have to put off the day of the Commission at the next assizes, which is a most unfortunate thing to do if he can possibly avoid it, because it may upset everything not only at that place but at every subsequent place on the circuit. On the whole, I think the best opinion is that it is desirable to run the risk of occasionally a day, or two or three days, not being occupied at one place, rather than to multiply the occasions when the judge either sits too long or has to alter the arrangements elsewhere. The judge can come back to London and sit in Court and take cases, and there are always cases ready; but, on the whole, even that is not worth very much. Fixed arrangements having been made, and parties having reason to expect that their case will be taken at such and such a time, and counsel and solicitors having made their arrangements accordingly, it is not on the whole worth while that a judge should suddenly rush in and say: "I will take that case to-morrow." The small amount of time—because, on the whole, it is only a small amount—which is not occupied (I will not use the word "wasted") in consequence of what you say, does not really make it worth while to work the circuit judge's time in with the arrangements in London.

44,484. (*Chairman.*) There is one further point I should like to ask you about. When vacancies occur in any of the legal offices, is there any arrangement by which the necessity of the post in question is considered before it is filled?—There is a section in the Judicature Act on that very subject. When a vacancy occurs in the Supreme Court notice has to be given by the senior officer of the department to the Lord Chancellor and to the Treasury, and they have absolute power to do anything they choose with the office for a month. There was a Bill, one of the Bills of the class I referred to, brought in again and again (and it perished amongst the other "innocents"), which extended that clause by getting rid of the limit of a month, and saying that no appointment could be filled until the Lord Chancellor and the Treasury gave leave for it to be filled. There have been occasions, though very few, when the month has elapsed and the appointing authority, not being the Lord Chancellor, has said, with perfect right, "There is the vacancy. I have the right to appoint to it, and I shall appoint."

44,485. But, ordinarily speaking, the interval of a month secured in that way is enough to give the Lord Chancellor and the Treasury the opportunity of considering the position of the department?—Yes. Generally the Treasury and the Lord Chancellor are aware beforehand that there are questions to be decided about that office whenever it should become vacant; therefore, it does not often take them by surprise, though it cannot be said that no such case has ever arisen. On the whole, the relations between the Lord Chancellor and the other appointing authorities is such that it is not at all likely to happen that any difficulty would arise as to whether the office was to be modified or not.

44,486. (*Mr. Boutwood.*) Mr. Graham Wallas yesterday seemed to be on the track of a gentleman of 95 years of age. In the Bankruptcy Department (Companies Winding-up) there is a Mr. J. Brougham who was appointed on 11th April, 1845. If this statistical table be right, he must be very near that age?—Mr. Brougham is a gentleman of great age, and it is one of those instances that make it so difficult to recommend with absolute confidence a limit of age. Mr. Brougham has always been a most-efficient registrar. He is the senior Registrar in Bankruptcy.

(*Chairman.*) We shall probably have him as a witness. The Commission desire to thank you, Sir Kenneth, for your most valuable evidence.

Mr. ALFRED MUSGRAVE, called and examined.

44,487. (*Chairman.*) You are one of the registrars of the Principal Probate Registry?—Yes.

44,488. Will you kindly tell us what offices you held before your appointment as registrar?—I was appointed a clerk in the registry in 1872. Then I was promoted to the second class, and I was attached to the then senior registrar, Mr. Middleton, who had been senior registrar for a good many years; and in 1893 I was appointed registrar.

44,489. You have held the post of registrar since 1893?—Yes.

44,490. You are now the second registrar?—I am.

44,491. First of all will you tell us broadly what work comes to the Probate Registry, including the District Probate Registries. Is it the case that all wills and all estates for which administration is sought have to go to the Probate Registry or a District Probate Registry before probate or administration is granted?—All grants of probate and administration issue either from the Principal Registry or the District Probate Registries.

44,492. And no estates can be dealt with or administered under a will without a grant?—No estates in England or Wales can be dealt with without a grant. That is the operation of the jurisdiction of the Probate Court in England.

44,493. What number of estates go through the registry in a year?—I have the return for the year 1913, when there were 37,578 grants in the Principal Registry, and in the district registries there were 34,489.

44,494. That is, roughly, 70,000 grants divided half and half between the Central Registry and the provincial registries?—Yes, rather more in the Principal Registry.

44,495. Does that include the grants in the case of small estates?—Yes.

44,496. I observe in the judicial statistics that the grants in small estates are stated separately. Is that figure included in the figure you have given of the total estates dealt with?—The figure must be included. I do not at the moment know why the small estates are stated separately in those statistics.

44,497. Is there a difference of procedure in the case of small estates?—No. I suppose the figure was wanted for some purpose by the compilers of the statistics for the Home Office.

44,498. Is there any procedure by which very small estates can be dealt with without coming to the Probate Registry at all?—No grants can be made without coming to the Probate Registries. The post offices have certain facilities for paying small sums out without the production of a grant. Application may be made through an Inland Revenue office, but it is forwarded on to the personal application department or to the District Registrar.

44,499. And the work of dealing with the applications for probate or administration is the greater part of the work of the registry?—It is the greater part of the clerical work, but not of the registrar's work—that is to say, in the Principal Registry.

44,500. Apart from that which is non-contentious, there is also contentious work connected with probate?—All the business connected with the Court either in probate or matrimonial causes.

44,501. That, broadly, is the division of the work of the registry—the major part of the clerical work is dealing with the grants of probate or administration?—And of course filing away the documents and recording them afterwards.

44,502. All operations connected with that work?—Yes.

44,503. And the smaller part is the contentious work in the Court of Probate or Matrimonial Causes?—Yes, including *ex-parte* applications and motions to the Court and that sort of thing.

44,504. In connection with the non-contentious probate work, every will has to be presented to the Probate Registry with a copy prepared by the solicitor who presents it?—Yes.

44,505. The original will is preserved in the registry?—Yes; that is provided for by the statute.

44,506. Where the will is preserved in a district probate registry is a copy of it preserved in the Central

Registry?—Copies of all wills proved in the district registries are forwarded to the Principal Registry and preserved there.

44,507. An alphabetical calendar is prepared, I think?—It is a lexicographical calendar prepared of all grants in the registries—not a separate one for the Principal Registry.

44,508. That is a record of grants made by all the registries?—Yes.

44,509. That is prepared by the central registry?—Yes, that is prepared in the Principal Registry.

44,510. So that the operations may be broadly divided into the receipt of the papers for the purpose of obtaining the grant, the operations in connection with the giving of the grant, and the operations connected with the custody, preservation, and accessibility of wills and other documents after the grant?—Yes.

44,511. Does that give a fairly complete account on broad lines of the nature of the work which comes to the registry?—Broadly, except with regard to the preparation of the grant. That also includes the examination of the will, dealing with the question of its validity, and others of that kind. Before the preparation of the papers the clerks of Seats have to see that the will is duly executed, and whether there are any documents incorporated, or whether the alterations have been properly attested.

44,512. They have to verify the validity of the will so far as regards its execution?—Yes, and, if it is a question of foreign domicile, they have to see whether the will is made validly according to the testator's domicile at the time of the death. All those questions have to be dealt with in the "Seats" before the grants can be prepared.

44,513. You have prepared and handed to us a more detailed statement of the work, showing in what departments the work connected with those operations you have described is carried out. Perhaps you will put that in for the use of the Commission?—This is only a comparatively short account of the work. I can give it in more detail if desired (*handing in the statement*).*

44,514. You begin with the work of the registrars, and you mention that one of the registrars is in attendance at the courts on the hearing of probate actions and matrimonial causes, and also in the Appeal Court. Do the registrars take that duty in rotation?—Three of the registrars take it in rotation. The senior registrar, as a rule, does not attend the court.

44,515. Is that duty continuous?—One registrar attends for the sittings, and another registrar attends the next sittings.

44,516. For what portion of the year do the sittings continue?—It is the same as the general sittings of the Law Courts. I am in attendance now, and I shall be there up till Easter. After Easter, for the next sittings, another registrar will be in attendance.

44,517. And the Court sits for probate and matrimonial business practically every day during the term?—Every day during the term.

44,518. And sometimes there are two courts sitting?—Sometimes there are two courts sitting in connection with our business. We have two judges, the President and Mr. Justice Baggallay Deane, who is often hearing Admiralty cases, but when there is no Admiralty work there are two courts sitting to deal with probate and divorce cases.

44,519. When two courts are sitting, what is the arrangement?—I have to be in one, and my clerk in the other.

44,520. Does it frequently occur that two courts are sitting?—It does frequently occur. It happened yesterday and the day before that two courts were sitting. It just depends upon the Admiralty work.

44,521. Referring to the judicial statistics again, I see that the number of days on which the courts sat, counting the days when two courts sat as two days, amounted to an average of 251. May that be taken as a fair average at the present time? That was for the five years 1908 to 1912?—I presume that was correct at the time it was made up.

* *Vide* Appendix XCV.

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44,522. That figure would seem to show that it must be comparatively infrequent for the two courts to be sitting at once?—Not very, because the sittings would not amount to 251 days.

44,523. How many days do the sittings amount to?—If you exclude the Long Vacation and the Easter and Christmas vacations and 52 Sundays there are considerably less than 250 days.

44,524. (*Mr. Coward.*) Off-hand I think it is somewhere about 140 or 150 days, or something like that number?—It would not amount to anything like 251 days.

44,525. (*Chairman.*) Your statement gives some details of the work of the registrars who are not sitting in court. Does much of that work consist, as we have been told the work of the masters in the Central Office consists, of work of a judicial character? Does it imply making decisions of a judicial character?—Certainly, a great many.

44,526. Is that over points arising on contentious proceedings before they come to trial?—Not always before a trial. There are questions of variation of settlement and maintenance; alimony would be before trial. Questions of ownership of property are referred to us under the Married Women's Property Act.

44,527. Are they questions which are referred to the registrars by the Court, or which come to the registrars under the rules?—They are referred to the registrars by the Court, and we have to take the evidence of the parties to the dispute and hear counsel.

44,528. As regards the work which the registrars do on the non-contentious side, do they, in signing grants, take any detailed responsibility for them. Do they examine into the grants, or do they take them on the responsibility of the clerk of the Seat?—We do not undertake to find out clerical mistakes. A simple grant ought not to require much examination to see the grant is a proper grant. If there are complicated grants we go into them closely. We could not examine every grant closely; there are about 130 which we have to sign during the day. We see that they are proper forms of grant, that the title is proper, and that they are properly initialed by the clerk of the Seats—all those things we look at.

44,529. In difficult cases if the clerk of the Seats is in doubt, does he refer to the registrar?—Yes, there is one registrar in attendance specially every day for seeing any of the solicitors or the public, and to deal with any cases referred from the Seats.

44,530. Then the clerks of the Seats and their staff are the people who deal with the substance of the applications for grants of probate and administration?—Yes.

44,531. How is the work distributed between them?—There are six Seats, where the work is divided according to the initial letters of the name of the deceased person. They are alphabetical divisions. In each Seat there is a principal clerk with four assistants. The senior assistant practically helps in the work of the principal clerk in the Seat, and does a portion of his work. They go through the cases, the more simple ones being done by the assistants.

44,532. In a simple case does the clerk of the Seat accept the grant on the assistant's report?—The first assistant would refer it to the clerk of the Seat if there was any difficulty, but if it is quite a simple case he will have authority to deal with it as he would when the principal clerk of the Seat is away on leave when the second assistant has to take charge of the Seat.

44,533. Does he initial it or does the actual clerk of the Seat initial the grant?—The first assistant initials it in the absence of the clerk of the Seat.

44,534. He has authority to initial?—Yes.

44,535. With regard to the junior clerks, who are in the third class, is their work quite distinct from the work of the assistants who are in the second class?—It is distinct from the work of the first assistant.

44,536. But apart from the first assistants the work of the juniors is not distinguishable?—They have to prepare the grants and records and search caveat books, and prepare memoranda for the printed calendar and forward it on to the other departments.

44,537. I think your statement as regards the other departments into which the work is divided explains in sufficient detail the system for the present purposes of the Commission?—There is one thing I omitted to say with regard to registrars, and that is as to the hearing of summonses. We hear summonses in the same way as the masters do.

44,538. What is the nature of the summonses you hear?—Summonses as to particulars, discovery, and all those sort of questions, and interrogatories arising in the course of probate and divorce proceedings.

44,539. Are those points which go to the registrars under the Rules of Court, or are they specially referred to them by the Court?—Under the Rules of the Court. They also hear motions in certain cases in vacation, and that is I think under the powers of the surrogate by the transfer of the old Ecclesiastical Courts. Certain matters on motion, in the absence of the judge, and during the long vacation when the judge is away, are heard by the registrar.

44,540. Matters which in term would be heard by the judge?—Yes.

44,541. With regard to the registrar's clerk, you mentioned that the registrar sits in court and when there are two courts his clerk sits in the second court?—Yes.

44,542. When there is only one court sitting what does the registrar's clerk do?—The clerk sits in the same court with the registrar; the registrar very often is required to see solicitors, and has appointments in the room at the back. He cannot be the whole time in court.

44,543. And in that case the clerk takes his place in court?—Yes.

44,544. The registrar's clerk's duties are considerably varied and important?—They want a general knowledge of all the work of the registry to be of real use to the registrar.

44,545. They act as personal assistants to the registrars?—Yes. They have to draw up all the orders made on summonses when the registrar is hearing summonses, and on taxation they go through the bill and see that it is properly brought in. They have to look through divorce papers when brought in for the registrar's certificate, to see that the pleadings are in order. They also check the certificates on the grants as to the property set out in the Inland Revenue Affidavit before the registrar signs. There are innumerable duties that they have to do in the way of assisting the registrar before actual documents are signed.

44,546. Are they specially selected from the general staff?—Those are selected to be registrars' clerks who are likely to be suitable and intelligent.

44,547. (*Mr. Coward.*) Are they first class clerks that you are dealing with now?—No, they are clerks who have been represented by the President and Lord Gorell as clerks who ought to be in the second class, but they have only been allowed to be in the third class.

44,548. (*Chairman.*) What is the method of making the appointments of clerks in the registry?—They are first of all nominated by the President, and then they are sent to the Civil Service Commissioners to obtain a certificate. On the certificate being obtained they are appointed by the president.

44,549. The President keeps a list of candidates I suppose?—Yes, for nomination.

44,550. Are any steps taken to notify or advertise vacancies?—I do not think so. It would be done by the President. It is not done in the registry, and I think he has quite sufficient applicants. He has a long list of candidates for the vacancies.

44,551. By whom is the list of candidates kept?—By his secretary at the court. We do not have a list at the registry at all.

44,552. Is that his personal clerk?—His personal secretary. He is an official secretary—Mr. Pilcher, at the present moment.

44,553. If the list is not kept in the registry, perhaps you are not familiar with the method of dealing with candidates?—I should not like to say how the President deals with his list of candidates.

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44,554. You are not aware what steps are taken to ascertain the qualifications of the candidates?—Their references in all cases may be inquired into.

44,555. Does the President consult the registrars or the senior registrar with regard to appointments?—Not with regard to initial appointments, but only with regard to promotion.

44,556. Are the initial appointments invariably to the third class?—Always to the third class.

44,557. Do you consider the result, as regards the quality of the candidates appointed, to be satisfactory?—I think very satisfactory.

44,558. You are quite satisfied with the appointments?—Quite satisfied.

44,559. Have the candidates appointed, as a rule, had any previous legal experience?—Not many. A few have been called to the Bar, and a few have passed as solicitors, but they are very few.

44,560. What is the usual age on appointment? I think the age limits are 20 to 30?—Yes; and I think it would be better really if they were allowed to come in a little younger—18 to 30—because the promotion is so slow in the lower class that they get old before they have a chance of getting on to the higher work.

44,561. Have they, in fact, been appointed at a rather higher age?—You cannot find several people exactly 20. Sometimes they are appointed at 22 or 23.

44,562. In some cases the candidates are appointed at an age approaching the higher limit?—Not often. Those cases are exceptional.

44,563. But you would be in favour of appointment at a lower age than 20?—I think the limit ought to be rather lower than 20, and the result would be that the largest number of appointments would be somewhere about the age of 19 or 20.

44,564. I gather from that that you do not attach importance to any previous professional experience?—Not for the third class. I think you want someone who has been well educated, and is intelligent and able to learn his work quickly.

44,565. A candidate of that kind of good general intelligence and good education can perfectly well learn the work of the registry?—Certainly.

44,566. As regards the work of the registry, would the experience that a candidate had had in a solicitor's office be of any particular advantage?—He would be rather better at the beginning, but I do not know that he would have an enormous advantage.

44,567. When working in a solicitor's office, probably no large part of his experience would have related to that particular work which comes to the Probate Registry?—That is so.

44,568. So you would attach much more importance to the general education and intelligence of the candidate than to any previous experience?—Certainly.

44,569. As regards appointments to the higher posts, I understand that no appointments are made direct to the higher classes, including the principal clerks of Seats?—No, they are all filled up by promotion.

44,570. In the case of the registrars themselves, are their posts as a rule filled by promotion, or are appointments made direct?—Are you referring to the Principal Registry or the District Registries?

44,571. The Principal Registry.—I think I have been the only instance of an appointment from the staff.

44,572. I see two of the registrars were district registrars before appointment.—Two were district registrars, and I think they were both barristers before. The senior registrar also was a barrister.

44,573. The two other junior registrars had not served in the Principal Registry before becoming district registrars?—No.

44,574. Is there any legal qualification for appointment as registrar—any statutory qualification?—They must either be a barrister or a solicitor, or a clerk in the Principal Registry after five years' service.

44,575. So the road of promotion to a registrarship is open to clerks provided they are highly qualified persons?—Yes, it is open.

44,576. As regards the question of appointment, two suggestions have been put before the Commission with reference to appointments to third class clerkships in a

legal office: (1) that appointments should be made by open competition; (2) that they should be made not by the individual appointment of the head of the division on his own responsibility solely, but that there should be a responsible committee which should place recommendations as to candidates before the President. With regard to the first of those suggestions as to appointments to the third class by open competition, what would be your view?—I think the present system much more likely to produce satisfactory clerks to suit our department. I do not think it is necessary to have somebody with enormous cleverness or able to pass a high degree; they are not so likely to do the work well. To start with, there is a great deal of mechanical work, and anybody so very clever and superior will not take the trouble to do it.

44,577. In fact, you think by open competition you will get too high intellectual qualifications?—Not in all cases, because you get them both. You get some highly intellectual in passing certain points of the examination, but you want really somebody who is well educated, intelligent, able to understand how to do the work, and who is a gentleman. Such a man makes the better clerk for us.

44,578. Have you any reason to think that open competition for other offices has not produced candidates of general intelligence and education?—I would not express an opinion about any other office. Why I mention it with regard to our office is this: There is a very large lower class—the third class—and of the successful candidates under open competition, the people who pass best, and who are entitled to get a good place, would not come to us to begin with; we should only get the inferior clerks.

44,579. Perhaps in that answer you are assuming that it would be the same examination as the examination for the higher class of the Civil Service in general. That is not a necessary assumption; there might be a separate competition?—If it were not, we should get a lower class of clerk than we do now.

44,580. What reason is there to think that if you had an open competition you would get a different class competing from those who now apply for appointment under present conditions?—I think the average clerks, if it was open competition, who would be satisfied with the lower rate of pay which they have to take when coming into our office, would, in general, not average so high as the persons now appointed, a great many of whom have been to the university. We should not get that class of man if it was open competition.

44,581. But if the pay attracts them under present conditions, why should it fail to attract them if the entrance was by open competition?—Well, I have expressed my view, and I cannot say more.

44,582. If open competition has yielded results which have been considered satisfactory in the case of men in the Civil Service in general, both in the higher and the intermediate and lower grades, is there anything special in the work of the Probate Registry which would render that general principle inapplicable?—I was not taking it as an accepted fact that in all the other branches it was satisfactory. I only want to express an opinion with regard to my own department.

44,583. It has been taken as an accepted fact to this extent, that it is the method which has been applied practically in all other departments, with one or two exceptions?—Like most other things, it has some advantages and some disadvantages.

44,584. But you are not prepared to indicate any special circumstances in the work of the Probate Registry which would render it entirely distinct from the general body of Civil Service work?—The only sort of distinction I could draw is, as I have already said, that there is a large lower class with a good deal of mechanical work to go through in the first instance, and it is out of that class we have to pick a certain number of people who are capable of doing better work, and a few able to do quite high-class work. It is not as if we could be satisfied with a lower class man all round; that we do not want, and the whole of the work is not good enough to get the higher class in an open competitive examination. For this particular sort of office with a large lower class and a lot of mechanical work, and a few

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higher places for which they have to be selected and work up to, I think the present system is by far the best.

44,585. Your objection to open competition is that in the first place you would get too good a class of men for the mechanical work?—If we got too good a class of men they would be discontented with the lower class of work and would not do it, and it would result in our getting a class of men not so good as at present.

44,586. And such men would not be good enough for promotion to the higher places?—Yes.

44,587. Are not those two objections somewhat incompatible with one another? You can hardly get too low a class and too high a class at the same time?—I think you get now the sort of man who is more suitable—who is well educated, but not so clever as to be dissatisfied with doing mere elementary work.

44,588. As to the other suggestion which has been made of a responsible committee, including probably the head of the department—in this case, I presume, the senior registrar—to lay before the President recommendations as to candidates, the ultimate responsibility for appointment remaining with him, which would be your view as to a system of that kind. Do you consider that it would have advantages over the present system or not?—I do not think it would help much; what sort of test would be proposed?

44,589. I presume if a committee of that sort were created then the list of candidates would be accessible to them, and they would be able to obtain any information they desired about them, and probably interview the candidate personally, and would lay before the President their opinion of the respective candidates, the President not being necessarily bound to follow their advice?—I do not think there has been any occasion requiring it. I do not say anything against the system.

44,590. Is it not possible that that would produce greater continuity in the system of appointment?—As far as it has worked, I think the present system has worked very well.

44,591. As regards the question of promotion, on what principle is promotion made?—Promotion from the third class into the second class is by seniority and efficiency—that is, the senior, unless there is some reason against it, or some special claim on the part of another one, would be promoted. From the second class to the first class or to the post of Chief Clerk of the Seat, we should also have to consider a man's fitness for the special post which may be vacant.

44,592. As a matter of practice are clerks ever passed over for promotion from third class to second?—Occasionally. Sometimes if complaints have been made they have been passed over, and sometimes they are passed over because they do not want to be promoted. That is not often, but there is one now who is at the top, who specially did not want to be promoted; he wanted to remain in his department.

44,593. Was that because he had congenial work, which he did not want to leave?—I do not know the reason, but he specially asked not to be promoted.

44,594. At present is he the only one who has been passed over?—He is the only one. It has been done sometimes in the case of one or two vacancies, and then they have been promoted afterwards.

44,595. Are there any cases of passing over in the case of promotion from the second to the first class?—Yes, a great many. It depends where the vacancy in the first class is, as to who may be qualified to fill it. There was a promotion from the Personal Application Department a short time ago, when a principal clerk of the Seat was appointed, and his place was taken by a clerk, who was promoted because none of the senior ones were qualified to take the head of the Personal Application Department.

44,596. That was the case of a man being qualified for particular work?—Where the vacancy was in the first class. If the vacancy had been one of the positions in the Calendar Department, or somewhere where the work is not so important, one of the others might have been promoted.

44,597. Who makes the promotions?—The President makes the promotions, but he consults the senior registrar.

44,598. What steps does the senior registrar take to ascertain the relative merits of the men?—They are known as they deal with the work of the department; he is in perpetual touch with them.

44,599. He has sufficient personal touch?—Cases are reported upon. There are great differences in some of the work. Every junior clerk has an opportunity of learning the work of the Personal Application Department or the Seats. If he does not choose to take it he may have difficulty in getting promoted into the Seats later on. They all have an opportunity at an early stage, only at first the work there is rather more heavy, and they are kept late, and they do not always like it when they are juniors, and they go to some other of the departments where they do not learn so much and where they have less work to do.

44,600. Are the junior clerks transferred freely from one department to another?—The junior clerks are not actually appointed to departments; but if they do not take advantage of their opportunity of getting into a department which is likely to lead to promotion, then if they want to get in afterwards they are ousting other people.

44,601. Does it depend upon personal choice to some extent which department they go into?—It depends upon the seniority of the junior clerks. A certain number are in the Seats Department, and when a vacancy occurs you go down the lists, and it is those coming on below the last junior in the department who have the opportunity of going. If they object to going sometimes it may lead to their being passed over later on.

44,602. Does that mean that there is a certain recognised seniority between the different departments?—No; I mean, assuming there is a vacancy in one of the Seats and we want a clerk for a junior clerk, we should go down the third class until we got to the lowest name who was at the present time in the department or in a certain department. The next senior one, if well spoken of, and recommended by the head of the department where he is doing the work, would have the opportunity of moving.

44,603. Then there is a question of seniority between the departments. The Seats are recognised as being the proper place for the more senior of the third class clerks, and you give them an opportunity in order of seniority of going into the Seats Department?—There are certain departments, such as the Seats and Personal Application, where they learn better-class work, and there is the registrar's clerk's work also.

44,604. Those are regarded as more important than the other branches?—Yes, all those; but certain work in certain departments is considered more likely to lead to promotion because, when it comes to a question of filling up the appointment in the first class, you cannot appoint somebody who is not able to take the head of the department.

44,605. As between the other departments which are of less importance, are clerks moved about from one to another?—They are all transferable.

44,606. Do you make it a principle to move a clerk about so that he may learn the work of the whole department?—He should try to learn as much as possible. They cannot learn very much if they are in the strong-room all day looking after wills.

44,607. That is merely getting out and putting back documents, I suppose?—Yes.

44,608. Perhaps I am anticipating a subsequent part of your evidence, but I understand that the clerks in the Principal Registry are not infrequently appointed to District Registrarships?—Yes; they are from time to time.

44,609. So that may be regarded as another outlet of promotion to some extent for the clerks in the Central Registry?—It helps promotion enormously.

44,610. Those appointments rest with the President of the Division?—They rest with the President entirely.

44,611. Can you say in what proportion of the cases a clerk from the Principal Registry is appointed?—It is rather difficult to say just lately, because in some of the last appointments the President has shifted certain District Registrars. He has appointed one to

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another post, and filled the first post up with a solicitor sometimes. If you count them all as vacancies, there have been very few appointed from the registry lately. In a former period, when Lord Gorell was President, he always appointed from the registry; he considered that that was the best appointment.

44,612. But of late it has not been done so frequently?—It has been done, but not quite so frequently.

44,613. As regards the subject of organisation, the question has been raised on some previous occasions whether a portion of the work done in the Principal Registry at present, in the department concerned with contentious work, should remain where it is now or be transferred to the Central Office. I think the Committee of 1878 made a recommendation in that sense. Has any portion of that work been transferred in consequence of that recommendation?—No; none. The question was raised when Lord St. Helier was President, and objections were then made and nothing was done.

44,614. I think the Act of 1879 actually contemplated such a transfer?—But none of our duties are performed in the Central Office; they only issue the writs.

44,615. In fact, objections have been found which prevented the recommendation of the Committee of 1878 from being carried out?—I do not know exactly how it was that the recommendations of the Committee were thought necessary. Our work is so different from the work of the other divisions. The other divisions only have to deal with contentious work. Our probate contentious work is mixed up with non-contentious work. The wills have often to go from one department to the other, and you cannot put it quite on the same footing as the work in the Central Office.

44,616. Does any inconvenience result from the issue of writs in the Central Office?—I think it would be more convenient if they did not issue them, but I do not see much inconvenience. That is only one paper. They cannot issue the writ without coming to us for authority, and so it entails two attendances of solicitors instead of one.

44,617. As regards the other work connected with the contentious business, you think it would not be desirable to transfer that?—The work that was suggested to be transferred at the time I am referring to—Lord St. Helier's time, I think in 1901—was that all the taxing should be done in one department; but our taxing registrar also has all those questions of alimony and maintenance, which they do not have in other divisions, which work must be performed by someone. I do not suppose they would transfer the work of taxation and keep us with the same number of registrars; and if they are going to reduce the number of registrars I do not know how the work I am referring to, of maintenance and alimony, is to be done.

44,618. Is taxation an important part of the work?—The work done by the registrar who deals with taxations and those questions is very heavy.

44,619. Is the taxation proper a heavy part of it?—It does not take so much time as some of the other questions.

44,620. I see the number of bills taxed in a year is not much over a hundred?—That is not the chief part of the work of the taxing registrar.

44,621. The actual taxing of bills does not amount to very much if the number is not more than that?—I should have thought there were more than a hundred bills taxed in a year. There must be more, I should think.

44,622. In the judicial statistics the annual average from 1908 to 1912 appears as 113?—Is that referring to probate, or both probate and divorce?

44,623. That is under the heading of Probate, Divorce, and Admiralty?—Both probate and divorce.

44,624. Apparently?—I should have thought there must be more than that.

44,625. (Mr. Coward.) It is the three, because it is headed "Probate, Divorce, and Admiralty"?—We should not have the Admiralty brought into our return.

44,626. (Chairman.) Will you look at Table D, page 74. Does that include divorce?—I should say that that must include divorce. I must say that I am surprised at that number. I thought there were more. But the taxing is not the greater part of the work done by the taxing registrar; it is the other questions that take the longest time—the appointments which lead up to the cross-examination of parties on questions of maintenance.

44,627. You are of opinion that there would be considerable inconvenience in transferring that work?—Considerable inconvenience, especially on another point, and that is that there are a great many small bills of a wife's costs up to the setting down of the cause, and they want to get almost immediate appointments to tax those when the case is in the list. One is able to do that having entire control of this work, but whether that could be done in a general taxing department I do not know.

44,628. Do you consider that the present classification is satisfactory as regards the number of clerks in the different classes, and the correspondence of those classes to the work to be done?—The only thing I do not think satisfactory is the provision made for registrars' clerks. I think they ought to be admitted to be entitled to second class pay, and there ought to be four additional places in the second class provided for them.

44,629. (Mr. Boutwood.) They do not appear in the statistical paper?—They are appointed as classified clerks. They would appear either as third class or second class clerks. They are not appointed as registrars' clerks.

44,630. I thought there was something peculiar about their status?—They are selected. The point first cropped up at the time of the organisation in 1881, when there was a reclassification. Before that we had four classes, and the registrars' clerks were always selected from the fourth class and promoted into the third. At the time of the organisation in 1881 it was proposed and recommended that in fixing the number of the second class places there should be sufficient to include four registrars' clerks; but that was rejected, and therefore it was said that they ought to be third class clerks. More than one application has been made by the President, and a very strong representation was made by Lord Gorell in January 1907, but without any result. Therefore they still are only third class clerks.

44,631. But are they not eligible for promotion to the second class?—They are eligible for promotion, but when they are promoted they have to do other work, because there are not sufficient second class places to include the registrars' clerks.

44,632. (Chairman.) Is there a clear distinction between the work of the second class and the work of the third class clerks?—There is a clear distinction in some instances, and not so much in others. It is rather difficult to define in some cases.

44,633. Are there cases in which a third class clerk is doing better work than a second class clerk?—I say the registrars' clerks are doing very much better work.

44,634. Are there other cases in which they are doing much the same work in the same department?—All the clerks in the department are interchangeable. There are no actual appointments made, and sometimes a junior clerk may be doing work entitling him to second class pay, owing to his knowing the work a little bit better, instead of being shifted to another department—that is, temporarily. Therefore, in some of the departments the division of second and third class clerks as regards work is not actually fixed.

44,635. For instance, in the calendar and searching department, in which there are three second class and six third class clerks, is there any clear distinction between the works of the second and third class clerks?—There is there. That is a sort of double department which is grouped together so as to get a larger staff of juniors to render each other assistance when wanted. One of the second class clerks is practically head of the searching department, and the other is the first assistant to the head of the calendar department.

44,636. In the record-keeper's department, which is one of the larger ones apparently, there are three

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second class clerks and seventeen third class clerks. In that department would the second class clerks be doing better work than the third class?—I think so, certainly.

44,637. So that you would say, generally speaking, there is a distinction between the second and third class work, but that there are exceptions to it?—Certain places in each department are considered as being entitled to second class, and those we try as far as possible to keep always filled by second class clerks, and the other places filled by third class clerks; but it may happen sometimes that somebody has been promoted to second class who has not always been transferred immediately through it not being convenient to make, in the way of work, a transfer at the moment.

44,638. As regards the distribution of the work, do any of the higher officers do work which could be devolved upon officers of a less high class?—I do not think so. There was a suggestion at one time, whether the grants could not be signed by clerks of Seats, but it was objected to because the registrars' names had become so recognised in the Colonies and other countries with regard to the grants.

44,639. The grants are sealed as well as signed?—They are.

44,640. Would not the seal carry the authority of the Court, whatever signature accompanied it?—I do not think there would be anything gained very much, supposing it were introduced. If the grants were to be signed by the clerks of the Seats they would want larger salaries, and the actual signature would only relieve the registrar of a very small part of the work.

44,641. Does the actual signature take up much time?—There is the looking through the grant and becoming responsible for it, and if it were signed by the clerks of the Seats, there would be a difficulty in the registrar being responsible and in having full control over the work in the registry, and it is a question whether the seal could be attached without the signature of the registrar.

44,642. As regards the hours worked, what are at present the office hours in the registry?—10 to 4, and during the vacation 11 to 3.

44,643. Have recommendations been made by previous committees or commissions on the subject of the hours worked?—I think there was something recommended in 1893 or 1894.

44,644. Did not the Committee of 1893 recommend that the same hours should be worked during the vacation as at other times?—That is so; and with regard to the vacation hours, during one vacation the office was open from 10 to 4, and it was closed again by the president on the representation of a number of solicitors.

44,645. On what ground?—On the ground that it was a hardship on them because it kept them late, and they had to deal with their correspondence after the office was closed, and they petitioned the president to close the registry.

44,646. Are the solicitors obliged to come when the office is open?—I do not know whether they are obliged to, but I suppose they have to wait for certain things in the office, and it made them later. That is what happened.

44,647. What would you say on the question of making the office day a seven-hours day instead of a six-hours day?—The difficulty about that is that we have a great rush of people in the middle hours of the day, and the suggestion in this Report of 1893 as to reduction of number of clerks would be quite impossible.

44,648. How many of the departments are in direct contact with the public?—The Seats, the Personal Application, and the Public Hall; in fact almost all the departments excepting the Calendar Department, which is about the only one where they do not have to see anybody.

44,649. Is not the Calendar Department in contact with the public as regards searches?—The searches in the Calendar Department are searches made by the clerks, not by the public searchers.

44,650. Do not the clerks who make the searches come in contact with the public as regards the searches

to be made, or is it done by correspondence?—It has nothing to do with the public. The searching done by the Calendar and Searching Department is a search made on every application for a grant. Before the grant issues a search is made to see that there is not an existing grant. That search is made by a clerk and paid for by fees.

44,651. It is a search made by a clerk on behalf of the solicitor who applies for the grant?—The calendars have to be searched from the date of death up to the present time.

44,652. In order to see that no previous grant has been made?—Yes.

44,653. If someone wishes to find a will, to which department does he address himself?—That would be in the public hall where the public go.

44,654. Which department deals with that?—The Record Keeper's Department.

44,655. If I wish to find a particular will, I should apply to the Record Department, giving particulars of the will, and they would find the will for me?—Yes.

44,656. (*Mr. Coward.*) Would they find the will?—A book is provided. You get a search ticket first, and then the book is searched and the name produced, and in the first instance you are entitled to see the registered copy of the will.

44,657. If I go into the office to-day, I have to sign first of all a search form?—Yes, and you get a 1s. search ticket.

44,658. Then I get an index and I look through the index myself, and I see if there is a will there, and, if so, I say, "That is the will I want, will you kindly get it"; and then somebody comes and gets that will. That is the process?—Yes. They get the registered copy, because there is an additional fee if you want to see the original will.

44,659. (*Chairman.*) The searching of the index has to be done by the actual applicant, and not by the clerk in the department?—Yes.

44,660. (*Mr. Coward.*) What rating of clerk is it in the office who does that work. I go in and get my ticket; who is the clerk who gives me the ticket. Is he a third class clerk?—He is a third class clerk, and there are some "book-showers" in the hall who help you with the book; they are of the nature of messengers.

44,661. Then somebody goes to get the copy of the will?—That would be a book messenger.

44,662. (*Chairman.*) As regards the number of hours worked, your point is that the pressure from the public comes in the middle hours of the day, and that it would be difficult to reduce the staff at those hours in the proportion that would be suitable if the hours of attendance were extended?—Yes; and also in a busy department they stay considerably after 4 o'clock.

44,663. Is there much work to be done of the kind that a bank does, for instance, after it is closed to the public, in clearing up the work of the day—entering records and so forth?—That applies to the departments like the Receiving Department, where there are a lot of accounts. They have to deal with the purchase of stamps, and they are rather bustled in the early part of the day. They have a certain amount of work of that kind after four. Also both the "Seats" and the "Personal Applications" are frequently kept at work long after four.

44,664. And the Calendar Department?—The Calendar Department not so much, because that is work which is not so much current. It is the work that has to do with current business in departments which must be done from day to day. There is nothing in the Calendar Department except the searching which must be done day by day.

44,665. And the work of the "Seats"?—That must be done day by day.

44,666. But that is not primarily dependent on the public?—Yes, solicitors come in to see them as long as the office is open.

44,667. Does the public or a practitioner actually personally come in contact with the Seats Department, except in a small minority of cases?—Yes, there are a lot of questions to be asked. The clerks are perpetu-

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ally being interrupted in their ordinary work by solicitors coming in to ask questions, either about a case which has been brought in or a case which they are about to bring in.

44,668. Do not the great majority of cases, once the papers have been lodged, go through without any further question?—A great number do, but I do not know that I could say the great majority. There are lots of little slips and mistakes in the papers which have to be seen to.

44,669. Are not these seen to for the most part before they come to the Seats Department?—No.

44,670. Is it not the duty of the Receiving Department to see to that?—They have not to see that there are mistakes in the papers; they have only to see that they have the proper fees and the Inland Revenue affidavit showing that duty is paid if necessary.

44,671. From the Receiving Department do the papers come along to the "Seats"?—The papers for administration come on to the "Seats," and the cases as to wills have to go to the Scrivenery Department for the engrossment to be examined with the will, and after that examination it is forwarded to the "Seats."

44,672. So the correction of any errors in papers is done by the "Seats"?—Yes, they check the papers and scrutinise the will.

44,673. Are there often errors, or omissions, or incorrectness, in the papers?—Frequently.

44,674. I see in the evidence before the previous Commission it was stated that at that time—that was in 1873—errors were much more frequent than they used to be in the previous days of proctors?—That is going back some time. One ought to presume that solicitors know more about it now.

44,675. The suggestion at that time was that the general practitioner had not become familiar with the probate procedure. Has that difficulty remedied itself in course of time since then?—It may be partly remedied, but it does not prevent a great many mistakes being made in a number of cases which are referred to.

44,676. Have you attendance books in use?—Yes.

44,677. Are those scrutinised and acted on in the case of bad attendance?—Yes.

44,678. Is that matter under the senior registrar?—It is under the senior registrar. Each department keeps its own book, which is forwarded to the senior registrar from time to time.

44,679. How many days in the year are allowed as leave?—The leave is 36 working days.

44,680. Does that apply to all classes?—That applies to all classes.

44,681. As regards compulsory retirement, is there any age limit in force?—There is no actual compulsory retirement with us.

44,682. Are many of the clerks above the age for Civil Service retirement?—It depends which age you take, whether 60 or 65. There are very few over 65 now.

44,683. There would appear to be two of the principal clerks of Seats over the age of 65?—That is so.

44,684. No first class clerks?—There are two in the second class.

44,685. (*Mr. Graham Wallas.*) What would be the age of entry of a man who is now 65? Did they enter at the age of 20 in the old days? We have the dates of entry, but not the age?—There is one copy of the Establishment List marked with the ages.

44,686. (*Chairman.*) There appear to be two second class clerks over the age of 65?—Two. In the third class there is no one, except the clerks not eligible for promotion.

44,687. So that in the whole of the clerical staff there would appear to be only four above the age of 65?—Yes.

44,688. As regards the registrars themselves are there any over that age?—I know my own age now is 61, but I do not think I know the ages of the others.

44,689. What would be your view as to applying the usual Civil Service rule which permits of retirement on pension at the age of 60, and requires it at the age of 65?—If it was introduced I would rather suggest that instead of making a hard and fast compulsory retirement at 60, it should be at the time that you are

entitled to a full pension. If they come in at 24, it seems rather hard that they should not be able to serve their 40 years to get their full pension.

44,690. If your recommendation as to earlier appointments were carried out, that would solve that difficulty?—It would help it.

44,691. Would you regard it as an advantage to impose a limit?—It is certainly an advantage with regard to the ordinary classes, but there might be cases of clerks of Seats whom it would be desirable to keep over the age of 60.

44,692. Would you think it advisable to keep them beyond the age of 65?—I should think it would not be really necessary.

44,693. The Order in Council permits the retention of a Civil servant beyond the age of 65 where it is essential for the public service?—I think on those conditions I should have no objection to some scheme of compulsory retirement being introduced.

44,694. Cases would be very rare where it was essential in the interest of the public service?—Very rare.

44,695. And fixed retirement on an age limit would be beneficial in improving the flow of promotion through the office generally?—Yes, it would improve the promotion.

44,696. Promotion from the third class is somewhat slow?—Very slow.

44,697. As regards the arrangement for the clerical work of the office you have a Scrivenery Department?—Yes.

44,698. Was that formed as the result of the recommendation of the Committee of 1893?—Yes.

44,699. Has that proved advantageous in practice?—It has been very satisfactory.

44,700. What is the organisation of the Scrivenery Department. The work is done, I think, mainly by piecework?—They are paid by piecework. All the examining and copying is done in the Scrivenery Department.

44,701. There is, I suppose, a large amount of copying in making the registered copies of wills?—Yes, and a large amount of copying for the public.

44,702. The public can have copies of wills made for them on paying a suitable fee?—Yes.

44,703. The registered copies of wills are now typewritten?—Yes, now. That was also the result of the report of the Committee of 1893.

44,704. Has that proved satisfactory?—Quite.

44,705. At the time some doubts were expressed whether typewriting would be sufficiently permanent for that purpose. What has been the experience in that respect?—There is nothing up to now to show that it will not answer well. There are no signs of deterioration at present.

44,706. And that has enabled the registered copies to be kept in a smaller space and in a more convenient form?—And also having it done by piecework has prevented the arrears, which were always a trouble before.

44,707. Are you entirely free from arrears now?—Entirely free now.

44,708. Besides the registered copies of wills, is it the case that the engrossments of wills which have to be furnished for the purpose of obtaining the grant are done for the public where personal application is made?—Yes; in that case the engrossment is made in the Scrivenery Department.

44,709. In the case of an application by a solicitor an engrossment has to be presented with the will?—It is made by the solicitor.

44,710. Are those which are made in the case of personal applications in typewriting?—No, in manuscript.

44,711. Is there any reason why those should not be done in typewriting, too?—That I should rather like to hold back my answer about. I know they were originally done in manuscript, and I am not certain that they were not tried in typewriting, but I will let you know about that.

44,712. As regards the rates paid under the piecework system, how do those compare with the rates paid by outside stationers for similar work?—I do not quite know what they charge.

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(*Miss Haldane.*) About a penny for every 72 words is a usual charge.

44,713. (*Chairman.*) In the case of manuscript engrossment I see you pay 2d. per folio. Do you know what is the rate paid for typewriting?—The ordinary rate for typewriting is 1d. a folio of 90 words.

44,714. And for manuscript 2d. per folio. Are you aware what the rate paid in the Scrivenery Department of the Central Office is. I rather think that is 1½d. per folio for manuscript?—I do not know.

44,715. Have you any knowledge of what the average earnings are under this piecework system?—I have had a petition sent in by the examining clerks complaining that their rate of payment is not large enough.

44,716. That is for examining work, and not copying work?—It is rather a suggestion that the examining work, which ought to be considered as rather higher class work than the typing, ought to receive more money, instead of which it receives rather less.

44,717. Could you give us a statement as to the average earnings?—I can get that for you.

44,718. Are any female typists employed?—There are two female typists.

44,719. What would be your view about extending the employment of female typists?—I do not think it is so desirable, because in our system the solicitors' clerks and the public who order copies of wills are at liberty to read over with the copying clerks, and they are in the room with the copying clerks reading over and comparing their copies. There is another objection also with regard to divorce papers. There are a great many divorce papers which have to be copied, where the matter is not particularly suitable for female typists.

44,720. The copying work in connection with matrimonial causes goes to the same Scrivenery Department?—What now is done by the female typist is rather special work—copies for the registrars of odds-and-ends of documents. They do a small amount of the registered copies, and they repair torn and fragile wills which are brought in. There is a good deal of work of that sort which has to be done by these women.

44,721. As regards typing the registered copies, which is the great bulk of the work, is there any reason why that should not be done by female typists?—Some of that might be done by them, but I do not see that there would be much advantage in it. There is also the question of the payment. I think payment by the piece is so much better for the copyists, and most female typists are paid by salary.

44,722. Are the two female typists employed at present paid by salary?—Yes, they are permanent clerks paid by salary on a different basis to the others.

44,723. The Commission have received a representation from the clerks in the Scrivenery Department, which I think you have seen?—Yes, I also have one myself.

44,724. The principal point to which they refer is the question of pension. What are your views on that point?—If they could be put in the same position as our old registering clerks were, I think it would be a very good thing. Our old registering clerks were entitled to pension, although they were paid by the piece. They were considered permanent civil servants, and they were entitled to pension on the basis of their average earnings.

44,725. What has become of those clerks now?—They are all absorbed, I think, now, or have been got rid of. There is one still who is a third class clerk. When clerks in the Scrivenery Department have served eight or nine years their position in the registry is almost the same as if permanent Civil servants.

44,726. As a matter of fact, do they all serve continuously for long periods?—Yes. If a clerk comes in in the first instance he either is kept for very long service or else he is got rid of shortly, if he is not satisfactory. There is no case of getting rid of them afterwards. If he is found satisfactory he practically stays.

44,727. Is there any great fluctuation in the volume of work of the Scrivenery Department?—It is kept level. There is a certain amount of registering which is given out so that it never gets into arrear; there is always enough for the clerks to do.

44,728. I pass now to the District Registries. There are a considerable number of District Registries scattered over the country, I think?—40.

44,729. The location of those was inherited from the Ecclesiastical Courts, I take it?—The districts were, of course, set out in the Court of Probate Act, which depended on the old County Court jurisdiction at the time. There is a Schedule to the Act of 1857 giving a list of the registries, and it describes the districts, and there is a note to say that when they refer to a county it is the county described in the County Court jurisdiction.

44,730. Why were those particular places selected?—I should say, mostly, at all events, they had been diocesan ecclesiastical registries. I am not quite certain whether all were, but most of them, no doubt.

44,731. Is the distribution convenient?—They work very well. Whether it is possible to merge some of the smaller ones into the larger ones I do not know.

44,732. Looking at the list, it strikes me that a certain number of them are at very small places, and places without specially good railway communication?—Originally they wanted these registries to be accessible to the poor people so as to be very close to them, but now that they can apply through Inland Revenue offices I do not think the nearness of the registry is quite so important as it was. As a proposal (I do not know quite how it could be worked out), I do not see why some of the smaller registries should not be merged into suitable larger registries.

44,733. That has, in fact, been recommended by some previous Commissions, I think?—They have recommended amalgamation with the High Court or County Court registries. I do not know whether they have recommended the merging into larger Probate registries.

44,734. I think the Commission of 1873 recommended the merging of some of these registries?—I could not say; but, as far as my opinion goes, I think that would be more preferable than amalgamation with of the County Court or the High Court registries.

44,735. You think that a certain number of the smaller registries could be merged in larger ones?—Yes.

44,736. As regards merging, or uniting them with the County Court and Supreme Court registries, what do you say?—I do not think that would work so well.

44,737. What would be the inconvenience attaching to that?—The work is different; and, having perpetual communication with the Principal Registry with regard to the grant and notice, it is much better to keep our work entirely distinct.

44,738. How is the salary of the district registrars fixed?—The salary of the registrars was fixed originally by the Treasury and the judge for the time being.

44,739. Are they all fixed salaries?—Yes. They were not originally; I think they took fees; but the salaries were fixed in or about the year 1866.

44,740. And the holders are at liberty to carry on other work also?—In all the recent appointments they have been precluded. In all the appointments made by Sir Samuel Evans he has always insisted upon their giving their whole time to it.

44,741. Even in smaller registries?—Yes.

44,742. But in the smaller registries the work can be hardly sufficient to occupy their whole time?—That I cannot say, but I think I am right in saying that where the President has made an appointment he has insisted upon their not doing any solicitor's work. I do not know about any other private work.

44,743. As the Commission must now adjourn, will you come again to continue your evidence on the afternoon of Wednesday the 24th February, if convenient?—Yes.

ONE HUNDRED AND THIRTEENTH DAY.

Thursday, 18th February 1915.

PRESENT :

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.
 Mr. ARTHUR BOUTWOOD.
 Mr. JOHN ROBERT CLYNES, M.P.
 Mr. CECIL COWARD.
 Mr. RICHARD DURNING HOLT, M.P.

Mr. PERCY EWING MATHESON.
 Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
 Mr. PHILIP SNOWDEN, M.P.
 Mr. GRAHAM WALLAS.
 Mrs. DEANE STREATFEILD.
 Mr. E. W. H. MILLAR (*Secretary*).

Master THOMAS ANSDELL ROMER, called and examined.

44,744. (*Chairman*.) What is the position you occupy?—Senior Master of the Supreme Court, Chancery Division.

44,745. For how long have you held the post of master?—I shall have held it 29 years next June.

44,746. You have kindly given the Commission a very careful statement* as regards the work of the masters and of the office. I think the most convenient course will be if we treat it as handed in, and I will ask some questions to bring out the most salient points, in order that they may be present before the minds of the Commissioners in any further questions they may have to ask?—If you please. I should like to add that this description of our work was settled by all the Chancery masters in conference, at which every one of the masters was invited to express his opinion, so that this is a statement of the evidence of the whole body of Chancery masters.

44,747. This is a statement by the Chancery masters as a body?—Yes; not by me specially, but of the body. I want to make a point of that.

44,748. The Chancery masters are the same officers as those who were formerly called chief clerks?—Yes.

44,749. The change of title was made in 1897, I think?—Yes, it was.

44,750. And the position of the masters is that in all that they do they exercise the authority of a judge of the court?—That is so.

44,751. And the work which the masters do, as I understand, is determined substantially in this way, that all matters which come into chambers come to a master, unless, under certain rules or exceptions, they are reserved for the judge?—That is so; but in the first instance they come to the master. Although the judge deals with them, in the first instance in all proceedings up to the trial of the action they come before the masters.

44,752. And if they fall within certain categories, which are partly determined by rules and partly by the master's discretion, he then passes them on to the judge?—Yes.

44,753. The principle is that all matters are dealt with by the master except those which under these rules or under this discretion go on to the judge?—Yes.

44,754. And, in fact, as you tell us in your statement, the Chancery master is a judicial officer exercising all the powers of a judge in chambers except those he is precluded from exercising?—Yes, that is well described.

44,755. And in the cases where the matter goes on to the judge, the master makes a note for the assistance of the judge in dealing with it?—Yes, that is so.

44,756. Is it the case that the matters which are dealt with by the master himself without referring them to the judge include far the greater number of subsidiary matters arising in the course of the action?—They include almost all matters before the case reaches the judge for trial, and almost all matters after the judge has pronounced his judgment. In fact, the working out of his judgment is done by the Chancery master.

44,757. Do the matters arising on the working out of judgments constitute the larger part of the work, or the matters arising before judgment is reached?—I think the matters after the judgment are by far the most complicated and far the larger bulk of the work.

44,758. May I refer you for a moment to the Judicial Statistics, page 40, table 10. I see there certain statistics regarding proceedings in chambers, and I see that the number of orders made "of the class drawn up by the registrars" is given as 5,193, and of the class drawn up in chambers 7,376?—Yes, I see that.

44,759. In those numbers there is no distinction drawn, I think, between orders made in chambers by the judge, and orders made in chambers by the masters?—There is no distinction between the orders made by the judge in chambers and those made by us.

44,760. Out of that total number of orders, 12,500 in all, would far the larger number be made by masters?—I think far the larger number. You see, the judge only makes orders in chambers on the days that he sits in chambers, which is Monday in each week, whereas the masters are making orders all through the week.

44,761. So that the orders made by the judge would be a very small number out of that total of 12,500?—I should think a very small minority.

44,762. Then besides the matters of which we have been speaking already, the judge in some cases refers to the master for accounts or inquiries?—Yes, formal orders are made by the judge, and drawn up ordering accounts and inquiries; it is not a mere direction, it is an order to take certain accounts or to answer certain inquiries.

44,763. Does that constitute an important part of a master's work?—The most important.

44,764. As regards the time occupied, is it important?—Yes, I should say it takes up far the largest portion of our time.

44,765. Those accounts and inquiries, I suppose, are often very intricate matters requiring a large amount of time for each individual case?—Some of them are most onerous and most intricate. I have brought with me specimens of the certificates answering some of these inquiries in some of the most usual and important cases.

44,766. As regards accounts and inquiries, is the detailed work done mainly by the master himself or by the office staff under him?—By the masters. The whole of what is difficult in law, depending upon questions of law and of evidence is done by the masters, who make notes of what they have decided, and the detail is handed on to the clerks to work out.

44,767. In the case of an account, would the greater part of the work be detail work that would be done by the clerks?—The details would be done by the clerks, but all questions of principle or difficulty are always decided by the masters.

44,768. And the clerk who is dealing with the matter would refer to the master on any point of difficulty which arose in the course of it?—Yes, he is in close touch with the master; he sits in either the next room or a

* *Vide Appendix XCVI.*

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[Continued.]

room communicating, and he has access to me at any time on any of these questions. If the questions are likely to be difficult, the matter is adjourned to me. I wish to say that in answering these inquiries, while I am speaking for myself, all the masters do the same sort of work; the work is equally distributed, and when I say that I do a thing I mean that all my colleagues do the same or nearly the same; they may do it of course according to their own characters, but we all deal in substantially the same way with the same sort of matters.

44,769. In the case of matters which come before you, apart from accounts and inquiries, is the distribution of work determined by the distribution between the three sections of Chancery judges?—Yes, the whole of the work is practically equally distributed amongst the six Chancery judges, and the four masters attached to each group of two judges.

44,770. How is that equal distribution arranged between the four masters attached to one group?—Alphabetically, according to an equal division of the alphabet.

44,771. Does that apply to accounts and inquiries also?—It applies to everything.

44,772. Everything is divided alphabetically?—Everything amongst the masters is divided alphabetically and equally.

44,773. And that in practice ensures a fair distribution of work between them?—Yes. The masters have a great number of meetings in the year in order to keep the practice uniform in all of the divisions.

44,774. At those meetings do individual masters bring forward points that have arisen on which they wish to consult the general body?—Yes. They give notice to me of the points they wish to have discussed, and I send a Minute to all the masters of what we are going to discuss at the meetings.

44,775. How often do those meetings take place?—They always take place once during every sittings, that is four times a year, and there are a great many other meetings called as well.

44,776. As regards the time occupied by the work, what are the hours during which you actually sit in chambers to hear matters?—I come at half-past 10, and I sit till 4 or half-past. The clerks come earlier, they come at 10. But my work by no means ends there.

44,777. Those are the hours during which you are actually sitting and hearing cases?—Yes, actually sitting, accessible to the public.

44,778. You remain accessible to the public till what hour?—Till 4, or later if necessary. If I was in the middle of a case and it was urgent, I should sit on to half-past 4, or even 5 o'clock, if necessary.

44,779. And after you have finished that part of the work is there further work to do apart from the work in which you are in contact with the public?—Yes, very often.

44,780. Work of what nature?—Difficult pedigree cases, for instance. I remember a case in which I had to go back to the reign of Charles the Second to trace a pedigree. It took me two or three months; it took two hours a day of my private time for two or three months. I have a case here I can show you if you like, a pedigree case which was an extremely difficult one, not one of the worst, but it is a good representative case. Then there are all sorts of things, of course, as well as pedigree cases. There are accounts and inquiries in debenture-holders' actions, and many others; administrations of deceased's estates, and inquiries in foreclosure and redemption actions. On that point I may as well show you now the few I have got here. Here is an inquiry, for instance, as to who was the heir-at-law of a certain person. This is rather a typical case; I will explain why. First of all one man claimed, and I had to go through and consider all the rules of descent of real property. The testator in that case left a daughter who died, and then I had to observe the next rule of descent; he left no lineal descendants, and I had to go to another rule of descent, through which I had to try and get the nearest paternal ancestor.

44,781. In fact, in pedigree cases such as that, complicated questions of the application of the rules of inheritance are involved, which take a large amount of examination and time?—This particular case took me about three weeks, a couple of hours each day from half-past 4 to half-past 6.

44,782. Does it occur frequently that matters of that kind keep you at your office till a much later hour than half-past 4?—Pretty frequently, I think. I should think probably about once a month.

44,783. Would that be the case with your colleagues also?—Exactly. Whatever I say of myself my colleagues are likely to have the same thing. I only speak of myself, because it is easier to speak of oneself.

44,784. Then as regards the vacations of the courts; what is the practice of the masters during vacation?—There is always one master sitting in the Long Vacation.

44,785. And with the exception of that one master, the other masters have the benefit of the Long Vacation?—The others have the benefit of the Long Vacation.

44,786. And of the other vacations also?—No; at Christmas one master sits; but there is a little vacation at Easter and one at Whitsuntide, and then one master sits in each division; that is to say, three masters are sitting.

44,787. So that with the exception of the one master who sits in the Long Vacation and the Christmas vacation, and the three masters who sit in the Easter and Whitsuntide vacations, the masters have the benefit of the legal vacations?—Yes. At all other times, of course, all are sitting. I have been sitting for nearly 29 years, every day and every hour.

44,788. Then you give us a detailed statement which we have before us, of the classes of cases in which the Orders are made by the master without referring the cases to the judge, unless at the request of a dissatisfied party?—Yes.

44,789. Those represent the principal typical cases in which the master makes the Order without reference to the judge?—Yes. I think you can thoroughly rely on that statement as an accurate exposition of our work.

44,790. Then we will turn now to the work of the staff. Here, again, we have before us a detailed statement which you have presented to the Commission. As regards the first class clerks, it appears that part of their work is the hearing of summonses of a simple character?—Yes, for time and for discovery, and unopposed stop Orders and Discharges. They all require care. There is sometimes considerable contest about time, you know; solicitors try, I will assume for proper reasons, to delay cases, perhaps to get up evidence; no doubt all for proper reasons, but there is considerable contest sometimes.

44,791. Those cases require some discretion to deal with them?—Certainly.

44,792. Then the statement enumerates a variety of other matters which are dealt with by first class clerks, including the drawing and settling of certificates?—Yes; that is done from our notes.

44,793. Does that refer principally to accounts and inquiries?—Yes; all those are accounts and inquiries which we are ordered by the judges to take.

44,794. The actual document in which the reply is embodied, after the substance has been determined by the master, is drawn up by a first class clerk?—Yes, from most careful notes. In fact one of my colleagues who has now retired, used to say, "The draft certificate is a copy of my notes." I perhaps ought to add that great skill is required in drawing up these documents. The master has made it perfectly clear in his decision; but, as you know, sometimes form is very important, and if the draft certificate is not put in the right form it may cause great confusion; therefore it has to be done very skilfully.

44,795. Then the work of the first class clerks is of considerable importance?—Most important, I consider. I should not like to rely upon any but two clever experienced men. The masters are responsible practically for most things; that is to say, for any delay or any mistakes, or anything of that sort. If there is any complaint made, or if there is any undue delay,

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the judges send for us and we are responsible. They never see the clerks, and if these clerks of ours make mistakes the masters are held responsible. Therefore you can quite understand that we like to have a very reliable man.

44,796. Quite so. I see that assessing costs is one of the items contained in the statement of a first class clerk's duty?—Yes.

44,797. What does that refer to?—That refers to small amounts of costs up to about 20*l.* or more, if the judge directs it, which for reasons of expedition and saving of expense are directed to be assessed in chambers.

44,798. Without going to the taxing masters?—Without going to the taxing masters.

44,799. Does that represent a large number of cases?—There is a good deal for a first class clerk to do in that respect, and that requires naturally very great experience, because solicitors, of course, expect that to be well done and fairly done.

44,800. Then, as regards the duties of the second class clerks we have an enumeration before us. Are those, broadly speaking, of decidedly less importance than the duties of first class clerks?—Yes, I think they are of less importance; but, of course, they have to be very carefully done.

44,801. I see in the enumeration the drawing up of chamber orders?—Yes.

44,802. What is meant by chamber orders?—Those are orders made by the masters in chambers.

44,803. Does that apply to all orders made by the masters?—No; in chambers the more complicated and difficult orders are made by the masters, and all orders for payment into court and out of court, which have to be acted upon by the Paymaster-General, are finally settled and passed and entered by the registrars.

44,804. Then does the phrase "chamber orders" mean such orders as are not required to be settled by the master?—No; they mean all orders made by the masters and first class clerks, some of which, as I said before, are passed and entered by the registrars; but most of them are settled and signed by the master in chambers.

44,805. Perhaps we may come back to that question of the exact manner in which orders are dealt with later, when we are considering the question of organisation?—For some other purpose, some time ago, I made a memorandum on this point, and it is to this effect: "At the present time about one-half of the orders pronounced and made in chambers, of which half about one-third are orders which deal with the payment out and the division of funds in court, are passed and entered by the registrars, and the remaining one-half are settled and signed in chambers." I endeavoured at that time to get a pretty accurate statement about that. This is a private memorandum of my own, which you may take as correct.

44,806. Then are the "chamber orders" which are drawn up by second class clerks the half which is dealt with entirely in chambers and does not go to the registrars?—Yes, that is so.

44,807. The other half goes to the registrars?—The other half goes to the registrars.

44,808. Then, coming to the third class clerks, their duties are apparently more mechanical, consisting in issuing summonses, preparing lists, and matters of that kind?—Yes; but they are very important; they have to be done by a very intelligent man. They are the clerks that the solicitors, perhaps, see most of.

44,809. Would it be correct to say that their work deals rather with the machinery for carrying on business than with the substance of the business?—Yes; I think it would be so.

44,810. From the detailed statement that would appear to be the nature of their work?—Yes.

44,811. Is the distinction between the work of the three different classes clearly and accurately maintained in practice, or is there some overlapping and variation in the distribution of the work between the three classes?—No; this statement represents the general distribution throughout all the divisions. Sometimes there is a little varying; sometimes a second

class clerk might do a little bit of the work of a first class clerk, and sometimes a first class clerk might do a little of the work of a second class clerk, but there is no appreciable variation.

44,812. Would a second class clerk ever draw up a certificate?—Certainly not.

44,813. Would a first class clerk ever draw up a chamber order?—Yes, he might, but it would be a very difficult one.

44,814. If it was a difficult one the second class clerk might bring it to the first class clerk for assistance?—Yes, if it is a very difficult one I very often refer it to a first class clerk.

44,815. Do the second and third class clerks act under the general instructions and guidance of the first class clerks?—No, they all act under the directions of the masters. They help one another, of course.

44,816. If a third class clerk or a second class clerk had a point of difficulty, would he bring it direct to the master, or would he bring it to a first class clerk?—He would very likely bring it to one of his colleagues first, but if it was extremely difficult he would bring it to me. I am absolutely accessible; we are all close together, and in any case that was difficult they see me at once, and I settle it.

44,817. At the end of your statement you have set out the nature of the proceedings in four typical actions?—Yes.

44,818. Would it be correct to say as a general inference from those statements that in the majority of cases, as the result of an order of the Court, the whole of the proceedings in the remainder of the action are carried out by the master?—Yes, that is correct.

44,819. And that in certain cases, such as foreclosure proceedings, the whole of the proceedings are carried on without any reference to the judge himself unless the parties desire it?—All these matters are carried out entirely by the masters with the assistance of their clerks, without any reference to the judge. It is our business not to trouble the judge if we can help it.

44,820. In carrying out matters connected with estates, have the masters to exercise what I may call a business discretion as well as a judicial discretion?—Certainly.

44,821. For instance, supposing it is a question of a sale of property, has the master to exercise his discretion as to whether the price is an advantageous one to accept?—Completely. He has to exercise his discretion and what common sense he possesses.

44,822. Then, dealing with investments, has he to exercise discretion how investments should be varied, what should be sold and what should be bought, and so forth?—Entirely.

44,823. Does he exercise that on his own knowledge and experience, or has he expert advice?—As a general rule he exercises it on the strength of his own experience and discretion, and when necessary he has expert advice.

44,824. On questions of investment of funds would he, as a rule, take expert advice?—He might in some extraordinary question of investment—some investments in some unusual stocks or shares; but of course the funds in court are invested in funds which are authorised by general orders of the Court as proper investments of trust funds, and those are varied from time to time by the inclusion of further securities which are considered proper for investment of funds in court or trust funds.

44,825. As between the funds which are authorised he would exercise his discretion?—Yes.

44,826. And has he to deal with questions of the management of landed property?—Certainly.

44,827. Is that done as a rule through agents, or does he deal with those directly?—That is done through agents who make affidavits on a question of management which has to be decided.

44,828. If there is a landed estate in court, supposing there is some question of expenditure on repairs or improvements, has the master to decide it?—Certainly, assisted if necessary by expert evidence.

44,829. On any important question would he call expert assistance?—Certainly he would.

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44,830. On a large question of improvement?—Yes, he would require the affidavit of an experienced estate agent.

44,831. But would the practical day-to-day management be in the hands of an estate agent?—Yes, the details of it would be.

44,832. If a farmer wanted a gate mended he would go to the local estate agent, he would not apply to the master?—No. You see for many of these estates in Chancery there is a receiver and manager appointed, and he passes his accounts for little minor things; he does not come to the master for any minor question, but such expenses are included in the account, and if they are proper they are passed and sanctioned by the master.

44,833. Then, in practice, the day-to-day management would be in the hands of the manager and receiver, and questions would come before the master on the question of passing the receiver's or manager's accounts; would that be the case?—Yes, or it might be that trustees might still be managing the estates under the supervision of the Court and the trustees would exercise their discretion, but you may take it that if there is any question of difficulty or doubt in which the parties (receiver or trustees) might think that if they took the wrong course they might be liable, they would certainly come to the master, because the master is so ready of access; we are always there.

44,834. (*Mr. Coward.*) Not perhaps because he is ready of access, but because they want the authority of the Court to do it?—Yes, that is one of the reasons.

44,835. (*Chairman.*) We come now to the question of appointment. In the case of masters is there a statutory qualification?—Yes, there is, by the Act of Parliament which constituted the masters (the old chief clerks, our predecessors), the 15th and 16th Victoria, Chapter 80, Section 17.

44,836. "No person shall be appointed chief clerk to the Master of the Rolls or any Vice-Chancellor unless he shall have been chief clerk to one of the masters in ordinary of the said court, or have been admitted on the roll of solicitors or attorneys in one of the courts in Westminster Hall, and practised as such solicitor or attorney for the period of ten years at least immediately preceding his appointment." That is the section you refer to?—Yes, that is the section.

44,837. By whom are they appointed?—By the Lord Chancellor.

44,838. Do you consider that the statutory qualification is essential? Of course, it is at present essential as a legal qualification, but do you think it is desirable to maintain it in its present form?—I think so, and I will give my reasons. I think that the practical experience and sense of responsibility which a man can alone get by having practised as a solicitor is necessary for him, so as to give him self-reliance in his judgment and experience to enable him to decide the difficult questions which he has to decide as a Chancery master.

44,839. At present a barrister is not qualified for appointment as Chancery master?—No, the Act excludes him; the Act confines it entirely to solicitors.

44,840. Do you consider that that exclusive qualification of solicitors should be maintained—that the exclusion of barristers should be maintained?—Personally I think so, for the reason that a barrister does not get the business experience that a solicitor does.

44,841. So far as regards the qualities of self-reliance and power of forming a decided judgment which you mentioned, would a barrister's training and experience be as good as a solicitor's?—It ought to be equally good on legal matters, of course.

44,842. But on the business side you think a solicitor's experience more valuable?—I think so, with all modesty.

44,843. Of course a barrister does not have to deal with the management of estates and property?—No, a solicitor is in a very responsible position; he is liable to an action for negligence. If he makes any mistakes he is liable to an action for negligence, with very serious consequences. But beyond that the interests of his clients are, of course, of all importance to him; he has

to consider the interests of his clients not only at the time he is consulted, but he has to think of their interests in the future as well. I mean that he might even cleverly win an action for a client, but it might not be the wisest thing to do for that client; it might lead him to make enemies, which might be bad for his business; it might, looking at it as a family matter, cause even, if he was successful in certain proceedings, unhappiness in his client's family; and in all these matters a solicitor feels a great sense of responsibility to his client.

44,844. Has a master to consider matters from that point of view?—Certainly. I exercise the same care in my work that I did when I was a solicitor.

44,845. That is to say, that part of his work which deals with administration?—Yes.

44,846. Because, I presume, in the judicial part of his work that aspect of the matter does not arise?—No; it is quite different looking at it from the legal, litigious, side, where, when the master has done his best to arrive at a correct decision, he has done all he can; those consequential circumstances which I have mentioned with regard to a solicitor in practice do not, of course, obtain when you are a Chancery master. I hope I have made myself clear.

44,847. Yes, I think I take your point, that in the part of the master's work which deals with administration rather than litigation, he is bound to think of the interests of the parties concerned, apart from purely legal considerations, in the same manner that a solicitor has when he is dealing with his client's affairs?—Yes.

44,848. That is an aspect which is more constantly dealt with by a solicitor than by a barrister, and for that reason you think that a solicitor's training and experience is more valuable, having regard especially to that part of a master's work, than a barrister's training and experience?—Yes, I quite agree with the way you put it. I, perhaps, ought to add, when I am on the point, that a very important part of the jurisdiction of the Chancery Division concerns infants, wards of court, and in those matters we have to exercise quite a paternal jurisdiction.

44,849. In the cases of wards of court does the master fulfil the functions that a guardian would fulfil in the case of an ordinary ward, or is an outside guardian appointed by the Court?—Yes, a guardian is appointed, but that guardian acts according to the directions of the master, and if necessary of the Chancery judge.

44,850. Does that apply to personal matters such as education as well as to matters of property?—Education, maintenance, putting out in the world, property, in fact everything that concerns the welfare of the child.

44,851. In cases of that kind does the guardian frequently refer to the master for directions?—Always when it is a matter of importance.

44,852. If it was a question of what school a child should go to would he refer to the master?—Yes, in most cases he would, because the question of the school at the particular moment of that child's life may be of paramount importance to the child. Many of the most difficult questions with regard to the custody and maintenance of infants of course are dealt with by the judges in person with our assistance.

44,853. Do you think that the present system of appointment has been satisfactory in its results?—Well, it has stood the test of over sixty years, and has been found to work well, and therefore I conclude the results are satisfactory.

44,854. The suggestion has been made that for dealing with appointments of this nature, professional appointments, the appointing authority should be assisted by a committee?—That is to say the Lord Chancellor.

44,855. The Lord Chancellor in this case; that he should be assisted by a committee who should report on the candidates, and that the Lord Chancellor should consider their report before making an appointment. Would you consider that there would be advantage in creating a system of that kind?—I would rather confine myself to appointments in Chancery, and I will speak as to Chancery. At present there is nobody of that kind

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to advise the Lord Chancellor on appointments, but when Lord Haldane took office he originated a system by which all candidates for appointment in Chancery chambers should be referred to me as the senior master.

44,856. You are speaking now of the clerks?—Yes, they are referred to me, and a series of questions according to a form supplied to me by the Lord Chancellor are put by me to the candidates. They all come and see me.

44,857. You see them personally?—I interview them, and I interrogate them very searchingly on all these points.

44,858. To turn back again to the question of masters; would you consider it advantageous that the Lord Chancellor should have the assistance of some person or body who would exercise in the case of masters somewhat the same preliminary examination into their qualifications as you do in the case of candidates for the lower posts?—I have had so much experience with large bodies; it is very difficult to get them to agree.

44,859. It need not be a large body; it might be a small body?—No, I do not think it would be an improvement on the present system. The present system is like the appointment of judges. The Lord Chancellor finds out all about the solicitor who seeks to be appointed; he can ask questions of other solicitors, and the solicitor is probably well known as practising before the Chancery judges and the Chancery masters. The Lord Chancellor can ask questions of the judges, or if necessary of me or any other of the masters. I do not think I am prepared to say at the present moment that a committee of that sort would be an improvement.

44,860. You think that the Lord Chancellor has sufficient means of information about candidates without creating a committee of that kind?—Certainly.

44,861. To turn now to the clerks, they also are appointed by the Lord Chancellor?—Yes.

44,862. They have to pass a qualifying examination, I think?—Yes they have the Civil Service examination.

44,863. Is that examination valuable?—Oh, yes.

44,864. The standard is not a high one?—No, but of course it is valuable; it ensures the fact that they have all been reasonably educated, which is necessary of course.

44,865. What are the qualifications that you require for the clerks in the office?—The best class of clerks in Chancery chambers are clerks who have been clerks in practising solicitors' offices of at least five years' service; such clerks should not be debarred from appointment in the first instance to second class and first class clerkships, should occasion arise. That is the evidence of the masters as a body.

44,866. To develop that a little, is it because of the mental training, or because of the actual knowledge of legal procedure that they acquire that you think training in a solicitor's office is desirable?—Because of the experience that they have acquired both in the practice of the law and in business matters, the same kind of experience as I have spoken of as necessary for the masters, only, of course, in a different degree—in a rather lower degree.

44,867. If a young man of good intelligence and general education entered the office at the age of 19 or 20, could he learn the work in the office?—He would be no use whatever at first.

44,868. How long would he take to learn the work of a third class clerk?—I should think quite three years.

44,869. As much as that?—I think he would be a nuisance to the master and a nuisance to the other clerks, and a nuisance to the solicitors who practise, for some time through no fault of his.

44,870. Is there anything in the work of a third class clerk, as enumerated in your list, that would take as long as three years to learn?—Yes, I think so. They have got to know something about the nature of actions and originating summonses and proceedings in Chancery; they have got to see whether the right parties are joined in the actions; they have got to see that all the parties have entered appearances properly; they have got to see, in a case of infants, that they have properly

appeared by guardians *ad litem*; they have got to see, in the case of people of unsound mind, that they have also properly appeared by guardians *ad litem*, and they have got to give the proper returns on these various proceedings. Some of them are returnable for appointment before the master on an originating summons in eight days, some ordinary on summonses in two days, and so on; and if mistakes are made in these things the proceedings have to be done all over again. For instance, if they make a mistake and return an originating summons for appointment before me, say in seven days, that is not legal; it will all have to be served over again, and a lot of expense incurred about it. Details of that sort are too numerous to mention where mistakes made would be very disastrous.

44,871. Would those details be learned in a solicitor's office?—Completely, because these clerks have been acting as Chancery clerks, who carry out these things every day and know as well as the clerks in my chambers all these details that I have been speaking about; they know it all, and therefore it is all done properly and mistakes are not made.

44,872. Their work in a solicitor's office would include a great many other kinds of work as well, I presume?—Yes, their work would include probably conveyancing and all the general business of a solicitor's office.

44,873. Conveyancing, again, is a branch in itself?—Yes; and in the general business that comes into a solicitor's office they get to know a vast amount about the details of the management of estates, and about all kinds of things that are dealt with in chambers.

44,874. Then in five years in a solicitor's office they would have learnt not only all the work done by a third class clerk in your office, but also a very great amount of other matters too?—Certainly.

44,875. Then why is it that in five years in a solicitor's office they can learn so very much more than they could in three years in the office itself?—Owing to the greater variety of matters which are dealt with in a solicitor's office.

44,876. The greater variety, I should have assumed, would have made it more difficult to learn, and take more time to learn?—I suppose in doing constantly in Chancery chambers the work I have described they would learn that particular thing a little bit quicker than as clerks in a solicitor's office, because there they would have been doing not only the Chancery work but something else as well.

44,877. In a solicitor's office they would be doing a great deal besides?—Of course the larger the solicitor's office the more a man is confined to certain things, but he has to be a handy man in a solicitor's office.

44,878. Then you regard the previous training in a solicitor's office as a very important matter in the qualification for admission to your office?—I think we all clearly do.

44,879. Do you think it would be desirable sometimes to make direct appointments to the second and first classes?—Well, we have had to sink our little differences somewhat in our conjoint evidence, naturally some of us think a little differently about that. It seems to me that it is a little unfair to the third class clerks who expect to get their promotion; it blocks their promotion if men are put up *per saltum* above them directly.

44,880. Personally you would prefer to fill the higher classes by promotion rather than by direct appointment?—Yes, I think so, because they have the proper qualification to begin with, a good foundation, and then they learn the higher working in chambers.

44,881. Do you consider that under the present system of appointment you get the right men for the office?—Yes, I think if the whole of the Chancery chambers were manned by that kind of man, the solicitor's clerk class, we should get about as near perfection as is possible.

44,882. As a matter of fact, have recent appointments been of that class?—Yes, I think they have.

44,883. Since the system was instituted by the Lord Chancellor of referring candidates to you, have all the candidates appointed been men who have had previous

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experience in a solicitor's office?—I should think so, but of course I do not know exactly what may have been done in other chambers.

44,884. I am speaking of your own office, Chancery chambers?—There has been no appointment in my own division for a long time.

44,885. When was the last appointment?—I happen to have a list here. My third class clerk was appointed to the public service in 1902; that was in the Registrar's Department; he was first appointed there, and then he was appointed into my chambers as third class Chancery clerk in 1909; he has been with me, you see, six years.

44,886. There appears to have been one appointment in 1914?—Yes, there are several, I see.

44,887. Were those recent appointments men who had had experience in a solicitor's office?—I am afraid I cannot say; probably, I should think, but I cannot say. There are other chambers. I, of course, as senior master, know a good deal about the clerks generally, but I cannot know everything.

44,888. Among the candidates who are sent to you by the Lord Chancellor to be interviewed, are there many candidates from outside who are not at work in a solicitor's office?—I think most of those who have come to me have come from solicitors' offices, but some have not, and I think on the whole I have reported in favour generally of those who have been in solicitors' offices.

44,889. Are a considerable number of candidates sent to you to be seen?—I have not had many lately, but about a year ago I had a good many; about, say, one a month comes to me.

44,890. Are those candidates who have applied for the Chancery chambers?—Yes, principally Chancery chambers.

44,891. Is it only those candidates who are sent to you by the Lord Chancellor?—I think some of them have been candidates who wanted a post at the Law Courts generally; but I think that the candidates for the King's Bench Division are sent to Sir John Macdonell, the senior King's Bench master.

44,892. It has been suggested that for the appointment to clerkships competition might be applied, either open competition or competition between persons having a certain qualification: for instance, five years' service in a solicitor's office. What would be your view as to that suggestion?—I think you have no absolute guarantee of a man's capacity by merely a system of competitive examination or limited competitive examination. You have no absolute guarantee of his efficiency for the purpose that you want him for. I have spoken to a good many high authorities on this subject, some of the Chancery judges, and they seem to hold the opinion that the solicitor's clerk class is the best. I do not care to mention names, because, of course, it is not evidence what other people say; but I have spoken to the head of a very important administrative department on the subject who is a friend of mine, and he takes exactly the same view as I do. He says: "I fill my office with experts. If I want a solicitor, I have a solicitor. If I want a man to advise on investments, I get a man who has been in a stockbroker's office. If I want a good man for accounts, I get him from a bank or insurance office." He says: "I have not much confidence in the man who has simply gone up for a competitive examination." So that you see a good deal of high authority takes the same view as the Chancery masters do, and as I do.

44,893. In the reports which the Royal Commission has already made, they have drawn a sharp distinction between posts requiring special knowledge and experience, corresponding to the posts which you have mentioned—a man to advise about investments or a man with legal knowledge—and the great mass of men required for general clerical work. It is to the latter class that the Commission hitherto has thought the system of competition applicable and the best system?—Yes.

44,894. Would not there be a similar distinction between the higher posts in the legal offices, and the main body of clerks who do the mass of everyday work

in these offices?—I have endeavoured to point out that even the third class clerk in Chancery requires some knowledge.

44,895. Of course, all work requires some knowledge?—But knowledge of the particular character I have mentioned—I thought I had made that clear—the work in a solicitor's office. What I mean to say is, that third, second, and first class clerks all require, in my opinion, some legal knowledge and knowledge of business, something more than the man who just comes from the university or public school. That is what I mean in the case of the Chancery chambers.

44,896. Would that requirement not be met by competition between men who had the qualification of, say, five years in a solicitor's office?—Now, I am going beyond what the masters have agreed, and this is only my personal opinion: I should see no objection to a man who gets in in a competition or a limited competition, provided that he has got a certificate of legal and business capacity of the kind I have prescribed.

44,897. It is experience rather than capacity that you are speaking of now. If he has a certificate of certain experience in a solicitor's office, would you then consider that competition was a suitable method of selecting between persons who have that qualification?—I see no personal objection to that. But I mean it should not only be experience, but capacity too. I consider—I may be wrong—that there are plenty of men who are very good hands at passing an examination. I have known men who are exceedingly clever in passing examinations in book knowledge and all that, who, to put it in a homely way, were no good whatever in the matter of business.

44,898. They have not the particular kind of capacity you require?—They have not the capacity. You must recollect that in the Law Courts they are put into contact with very clever and astute men—the solicitors and solicitors' clerks—and they have to hold their own in transactions with men of very great intelligence. I think a young man who has no previous experience would find himself in rather an uncomfortable position in dealing with solicitors and solicitors' clerks, who are men, of course, of great experience and astuteness.

44,899. You think you can discover the particular qualities necessary for dealing with them by selection rather than by competition?—Certainly. In favour of that view I should argue that the solicitor who gives his certificate that a man is fit is personally interested in giving that certificate, because that clerk who is appointed to the Chancery Division would in all probability be a clerk who would have to transact some of that solicitor's work, and if he certified an incompetent person his own work would be badly done. I put that forward as a reason. Besides that, the solicitor is an officer of the Court, and it is not only his wish but his duty to give the Court proper and reliable information. There is a fiduciary position between him and the Court to give the Court proper information with regard to the clerk that he certifies, just as it is his duty to give the Court reliable information about everything else.

44,900. Have you any suggestion to make with regard to the salaries of the lower classes?—I think the masters agreed something about that. If you turn to the heading of "Appointment" in our statement I should like to read it. The masters here begin by saying: "The system of appointment works well except as regards appointments from other Government departments directly to second class clerkships which have at times been made, and which do not appear to be quite fair to the third class clerks. Complaints have been made that at the present time there are third class clerks in Chancery chambers who have served for 14 years; whereas in the central office the longest service for third class clerks is under eight years." I think I had better read the next paragraph also.

44,901. We have all this before us?—Yes, I know; but I want to bring out another point. "The salary of third class clerks in Chancery, namely, 100*l.* a year to commence, rising by 10*l.* a year to 200*l.*, is insufficiently attractive to secure the best men, and it is suggested that the salary might be raised to 150*l.* to commence with, rising to 250*l.*"

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44,902. What do you suppose would be generally the salary of a clerk in a solicitor's office who has served five years?—Probably it would not be more than these third class clerks get now, but there is a member of the Commission who is better able to answer that question than I am.

44,903. We shall no doubt have some evidence from solicitors?—I have not been in the profession for 29 years.

44,904. On what is that opinion, that the commencing salary of 100*l.* a year is not sufficient to attract the best candidates, founded?—I know one third class clerk very well; he has been in the public service about 13 years or so, his salary is now 200*l.* a year, and I think he is decidedly worth more than 200*l.* a year. There are some other third class clerks who are equally good, and I think they are worth more than their maximum of 200*l.* a year. I think after service for some time they ought to have a higher salary. I think the superiority of the maximum salary of the second class clerk—400*l.* a year—is too great.

44,905. In fact you would increase the scale of third class clerks and diminish that of the second class clerks?—No, I would not diminish the scale of the second class. I do not mean that, but that I would increase the third.

44,906. Did not you say just now that the maximum of the second class clerk was too great?—Looking at it from the point of view that a third class clerk's maximum ought to be increased; but I do not mean that the second class maximum is too great. If I led you to that impression I correct it by confining myself simply to saying that the third class clerks ought to have more. I do not for a moment suggest that the second should have less. If I did say it, I should like to correct it.

44,907. (*Mr. Boutwood.*) You meant that the difference between the two scales was too much?—Yes, I think I meant that only.

44,908. (*Chairman.*) Do you, as a matter of fact, find that you do not get the best candidates for these posts in the third class?—I think that is the opinion of some of the masters. Personally I am in favour of getting a competent man into the third class and then letting him work up. I think that is fair, and it is an incentive to the third class clerk to work up. Many are good, and one or two I speak about will, I know, go up to the first class and be very first-rate clerks; and I think every encouragement ought to be given to them to get up.

44,909. That brings us to the question of promotion. Is promotion by seniority or by merit?—I think I had better read from the Report about that: "The clerks are at present promoted from class to class according to seniority, provided they are considered fit for promotion."

44,910. As a matter of fact, is promotion invariably by seniority?—Yes, it is at present, certainly.

44,911. None have been passed over?—Provided the candidate is fit.

44,912. Are there any who have been considered unfit?—I am sorry to say there have been—very few, though.

44,913. Is that in the third class or in the second class?—In the third and in the second, too, but they are very few. There are always a few weaker vessels in a large body of men.

44,914. So to that extent a selection is made?—Yes. Promotion is by seniority provided they are fit.

44,915. Promotion is made by the Lord Chancellor, I think?—Yes, but what we report here is, "Shortly after Lord Haldane, the present Lord Chancellor, took office, he directed the masters to report to him whenever there is a vacancy, and make recommendations for his consideration as to filling it. This has been deputed to a sub-committee, consisting of the senior master and three masters in rotation, one from each division."

44,916. Do you consider that that system works satisfactorily as regards promotion?—Yes, I think so.

44,917. At present a clerk is not eligible to be appointed a master?—No, he has not got the statutory qualification.

44,918. If the statutory qualification was out of the question, if it did not exist or were repealed, do you

consider that any of the clerks would be suitable persons for appointment as masters?—Of course, that is a very delicate question.

44,919. It is not a practical question at this moment because of the statutory qualification; but, without dealing with individuals, do you consider any of the clerks would be suitable for such promotion?—I am very much in favour personally of giving every man a chance. I think the qualification ought to be maintained; I do not see why a clerk should not get promotion, but I think if the qualification is not statutory he ought to have the experience of a solicitor first. I know that is only another way of blocking him. He could not leave the office and become a solicitor and get that experience.

44,920. Have any of the clerks with technical qualifications before their appointment served for 10 years as solicitors?—I am not quite sure. I know of one man who is a first class clerk who has been a solicitor. I should doubt whether any have had the 10 years' experience.

44,921. But, apart from that technical point, do you think that the experience and training they have in passing up the office and doing the work of the office would fit them for the work of a master?—I am sorry to say I do not think so, because I attach so much weight, as I told you, to the experience and responsibility that a solicitor gets.

44,922. In what respects would the work in the office be insufficient as a qualification for subsequent appointment to a mastership?—The clerks never have to come to any conclusion on any difficult matters; they are all referred to the master. They have not had that experience of constantly revolving a difficult question over in their minds and coming to a conclusion on it. Of course, there may be exceptions; some of them may be very brilliant. Some of those first class clerks I do not know of may be very brilliant men, but those I have come across I do not think are qualified for the reasons I have given.

44,923. On the whole you would maintain the present system under which the clerks are not eligible for appointment to the position of master?—I think so; I am not aware of a better.

44,924. Their work extends over the whole field of a master's duties except that in important and difficult matters it is the master who has to come to the decision and not the clerk?—It extends over the whole field in a subordinate manner.

44,925. Is it the fact that they have not the responsibility for decisions in difficult matters, which, in your opinion, makes their experience an insufficient qualification for the work of a master?—Yes, that is what I mean.

44,926. Turning now to the question of organisation, the work, as you have already described, is divided into three groups, four masters being attached to each group?—Yes.

44,927. Has each master a separate staff attached to him, or is the office staff attached to the group?—Each master has a separate staff attached to him—two first class clerks, one second class, and one third class.

44,928. Do you consider that that is the best means of applying the office staff, or would there be any advantage in a distribution by functions rather than a distribution by groups. The first class clerks perform a number of different functions; two of them are attached to each master, and those two have to perform the whole of those functions which fall to a first class clerk?—Yes.

44,929. Another possible system would be to have a first class clerk doing a certain class of work for all the masters, and another first class clerk doing another class of work for all the masters. That is a division by functions, instead of attachment to a particular master?—No, I cannot imagine a better arrangement than the present. You have to work out certain cases, and those cases are best worked out by the master and those under him. You cannot distribute the work right through the division by putting all the first class clerks together and saying that they shall do the certificates, and that the second class clerks shall

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do something else; it must be according to the present arrangement, the four clerks working under the master.

44,930. You think that the most convenient arrangement?—Certainly.

44,931. Is there any waste of staff under that arrangement?—None whatever.

44,932. Each master can keep the whole of the clerks attached to him fully employed?—Absolutely.

44,933. Take, for instance, the work of a third class clerk in preparing the daily lists. Does a third class clerk prepare the daily list for each master?—Yes, his own master; he does not know anything about the other masters at all.

44,934. Are not those lists united in one general list?—Yes, but only for the convenience of the public. I have brought with me a copy of the daily list, and you can see exactly how it is worked (*producing same*). It begins with the chambers of Mr. Justice Joyce and Mr. Justice Eve.

44,935. (*Mr. Coward.*) Each master has his own list, but they are all included in the one general list?—Yes, in the printed list.

44,936. (*Chairman.*) They are only united by the printers?—Only by the printers in that document.

44,937. And each master's list is prepared by his particular third class clerk?—Yes, and all the appointments before each master are given by his third class clerk. Any other system of giving appointments would lead to utter confusion. The days have all the appointments allotted out for short appointments and long appointments, and those appointments are either given by the clerk, or, if I adjourn a case and give the appointment, myself. I adjourn to an appointment of sufficient length for me to deal with it, as I know how long it is likely to last even better than the clerk; but, of course, I have to trust to the clerk's experience in giving the original appointments before me. That is a matter which a man from outside would not know anything about. He would probably put down something that an experienced man would know would take two hours for five minutes, and I could not, of course, deal with it in that time, and then the parties are irritated if they have an appointment and the master has to adjourn it. I avoid all that by having a skilful clerk.

44,938. That knowledge is presumably knowledge that he has acquired in the office?—Yes.

44,939. Would he acquire that knowledge in his previous experience as a solicitor's clerk?—He would acquire a great deal of it because he knows how the masters divide their cases. He can see the papers, and would never dream of giving an appointment for five minutes to a case which by his experience he would know would last a couple of hours; he can tell by the very look of the papers what it is.

44,940. On another question of organisation, various committees have before the present time inquired into the Chancery offices, and I think each of those committees has considered the question of a possible amalgamation of the Chancery chambers and the Chancery Registrars' Office?—Yes.

44,941. I should like to ask your opinion on that point, but, before giving your opinion, will you kindly explain to us the exact relation at present between those two offices?—As you know, this question was not an original question asked. This has not been before all the masters. You will understand that.

44,942. Yes; so anything you say we will take as an expression of your personal opinion?—Yes, on this question it is entirely my own opinion, and I have not had much time to think of it. Of course it is a very serious question. I think Sir Kenneth Muir Mackenzie gave a very good description of the registrar's office in his memorandum prepared for the Chancery Registrar's Committee.

44,943. That is the committee over which Mr. Justice Kekewich presided in 1907, I think?—He seems to me to give a very accurate account of the registrar's office—a better one than I could give at the present moment.

44,944. The principal work of the Chancery registrars is the drawing up and settling of orders, after they have been made by a judge or a master?—Yes.

44,945. Taking the orders which are made by a master, is it the case that a certain number go on to the registrars to be drawn up and settled, and that a certain number are drawn up and settled in chambers?—Yes, half I think I said previously.

44,946. You said something like half. How is the line drawn between those two classes of orders?—All orders which have to be acted upon by the Paymaster-General are drawn up by the registrars; that is the practice.

44,947. Is that the distinction; are those all the orders that go to the registrars?—No, there are other orders. Perhaps I may describe them as the longer and more difficult orders.

44,948. Are they not defined by some more accurate definition than that?—Yes, I think they are defined by a document somewhere, but I am afraid I have not got it with me.

44,949. We may take it that half the orders, and those the longer and more difficult ones, go to the registrars to be drawn up and settled?—Yes, that is what I ascertained.

44,950. In your opinion is that necessary?—That is a very difficult question to answer. I should not entrust those orders to any but the two first class clerks to draw up if they were done in chambers, and those clerks have not time to perfect them at present.

44,951. Possibly more staff might be required if that work were done in chambers?—Yes.

44,952. But on account of the nature of the work is there any reason why it should not be done in chambers?—I think the first class clerks ought to be paid more if they are called upon to do it, because it would be quite a new duty and entail a great deal of extra exertion on their part. Of course this is nothing but my personal opinion.

44,953. We quite understand that?—I do not think myself, even if they were paid more and were willing to do it, they have the time; I think it would interfere with the other work.

44,954. Is not that a question of the numbers of the staff. On the question of organisation would it be desirable that this work should be done in the same office as the master's work in general, or is it desirable to keep up a separate office for this particular work?—I think it would entail more work on the clerks, which might be remedied by numbers; but it would also entail more work on the masters. I suppose these orders would have to be looked at by the masters—they might or might not be. If you treated the first class clerk just like a registrar and relied on him for the accuracy of the order, then we need not be troubled, and I do not see why we should be troubled, because after all it is only the detail; the correctness of the order depends upon us; we make the orders, and I do not see why the details should not be left to clerks to draw up.

44,955. I see part of the work of the first class clerks is preparing memoranda of orders made in chambers to be drawn up by the registrars. Would the preparing of the memoranda be materially different from the actual drawing up of the order?—I think I can better explain this by referring to something I have brought here. I have a report of my own on the subject which I am coming to presently. I do not know that we want any such heroic remedy. Here, for instance, is an order which we very frequently have made by the judge for inquiries in a debenture holder's action (*producing same*). You will see the nature of the order for such an inquiry.

44,956. Was this drawn up by the registrar?—Yes, because that is an order made by a judge in court. This order is not made in my chambers.

44,957. And this order would have been drawn from the notes made by the registrar in court, and from the documents?—Yes.

44,958. (*Mr. Coward.*) The endorsements on counsel's briefs?—Yes, partly from the briefs.

44,959. (*Chairman.*) In the case of a master's decision, the material on which the registrar draws up the order (if it is one of the class of orders that go to the registrar to be drawn up) is apparently memoranda prepared by the first class clerks?—Not necessarily by the first class clerks. In my chambers the second

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class clerk does that, except in the case of very difficult orders. That inquiry is brought into chambers to be worked out by the master, and an affidavit is brought in. This is neither an enormously big nor a very small case, but about an average case. I will hand to you now the answer to the inquiry (*handing same to the Chairman*).

44,960. May I go back to the point we were on. Is there any reason why a separate office should be maintained for that particular part of the work—the drawing up of this order?—If you will allow me, I will just explain this particular transaction which is a little complicated. I am coming to your point in a minute. Here is the certificate (*producing same*). This is our certificate in answer to that inquiry directed by the judge, signed by the master; it is a long document. That says who all the debenture holders are. It is very difficult to ascertain them; sometimes they are all over the Continent, and have to be advertised for, which causes a lot of trouble. Here is the draft certificate prepared by a first class clerk, which really comes before the other document (*producing same*). That certificate is an official document and is filed in the Central Office. When that is filed an order is made in chambers to pay the debenture holders. This order is made by the master and not by the judge at all, and you will see this one is signed by Master Hulbert. All this work is done in chambers by a first class clerk under the master's directions. Minutes are brought in by the solicitors, and then I say, "Order according to those minutes." Then the first class clerk is responsible for those minutes. Then the clerk—a second class clerk in my case—puts the names of the solicitors on it, and in most cases puts in the evidence on which it is founded, and that is sent to the registrar.

44,961. And on that the registrar prepares the order?—Yes. Then it goes to the registrar, and apparently he makes a working copy (*producing same*). Eventually this document is produced which is all perfected in the registrar's office. I have tried to find out what he does, and it is this: The registrar gets it re-drafted; any queries raised by the registrar are settled; he gets it printed; the solicitor gets it stamped with the court fees; it is then sent to the entering seat; the original order is kept first at the entry seat, and eventually at the Central Office; a duplicate order is sealed with the court seal and handed to the solicitor; this duplicate is then regarded for all purposes as the original order. That printed document I have shown to you I obtain from the solicitors; there is a duplicate of that in the Central Office. Therefore you can see how much is done in chambers and how much the registrar does.

44,962. Will you now tell us whether in your opinion there is advantage in that part of the work, which is done by the registrars, being done in a separate office?—I do not see any advantage in it being done in a separate office, only you must have the men to do it.

44,963. But assuming you have the men, there is no reason why it should not be done in the same office?—I personally do not see any reason. This is very important, but my colleagues may not agree with me over this—I think there is a considerable waste of time through the registrar's office, in respect of orders which are made in chambers, being separate from us. At present the registrars are independent officers; they are under the judge, and they are not in any sense under us; they are men of the same social position as we are, and their office is a very old one, and we always regard them as our equal officers. As I need not explain, the consequence is that the relations between the masters and the registrars are quite different from the relations between us and our clerks. Now it very frequently happens that when this draft order from chambers has gone to the registrar, the registrar puts what he calls "queries" on it. In most of those queries there is nothing very much, they are simply queries which, if the clerk in chambers raised them, could be put an end to in a few minutes by the clerk coming to me and asking me about them.

44,964. But under the present procedure it causes some little difficulty and loss of time. We need not, perhaps, go into the precise nature of the points?—No;

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I think I had better not trouble you with the details, but they are well known to me.

44,965. Generally it causes difficulty and loss of time?—Yes.

44,966. And that difficulty and loss of time would be avoided if the offices were amalgamated?—Yes, and also avoid a little bit of friction. I feel very great diffidence in saying this, as I do not want to interfere with any other man's daily bread at all; I have great reluctance to do it, and I desire to be quite fair to the registrars. They often come themselves, although not obliged to, and see the masters over these queries. On some of these orders a good many queries may crop up, and after the registrar having been to see me, he being an independent officer, I do not like to ask him to come again, and I go, as a matter of courtesy, as between one gentleman and another, to see him. But, perhaps, it is a couple of days before I can go and see him in his office to catch him just after luncheon time or just before 4 o'clock; we are so busy with these lists, that you have seen that it is extremely inconvenient for a master to leave his work and go to the registrar, so, perhaps, I cannot go for two or three days, and that leads to delay.

44,967. And that inconvenience would be avoided if the two offices were amalgamated?—Yes; but now I come to a thought of mine, for what it is worth. As I said before, you must have the men to do it, whether the offices are amalgamated or not. That I follow; but I do not see why you should want such an heroic remedy for it, because I think if the registrars were, to a certain extent, attached to the masters for the purpose of drawing up these orders, and could manage to see the masters at convenient times, like the master's clerks see them, a great deal of this waste of time and friction would be avoided. By friction I mean that the registrars, some of whom are very clever men, raise sometimes subtle questions. Lawyers are all alike; every man can find fault with something another one has drawn. They raise these subtle questions, and they are raised by the solicitors' clerks sometimes, and some of those clerks I have been speaking of, who are not very clever people, and do not understand the queries, come into my room when I am in the middle of hearing an examination in some crucial case, and they say: "Sir, the registrar will not draw up the order; it is a great shame, but it is because of this or that." I say, "It is very inconvenient;" and they say, "It is most urgent." I have to stop my work and settle this query—which all leads to delay. I cannot help thinking that if the registrars were approached, being sensible men, they might make some suggestions (rather than have their office abolished) by which they could agree to sink their dignity perhaps a little bit, treat the matter in a businesslike sort of way, and avoid the friction and delay. It seems to me so easy to do it. The only difficulty I can see about it is that the courts have all been constructed for the administration as it is, and the registrar's office is a little distance away. Instead of—as with my clerks—being adjacent to me, the registrars are some little distance off.

44,968. I think we understand your view on that point?—If we had another clerk for drawing orders or the registrars were attached to us, we should have to rearrange the rooms.

44,969. We need not go into that. Will you turn now to the remaining question I wish to put to you, and that is as regards the age for retirement. In the case of clerks, to begin with, do you think it would be desirable to have the ordinary Civil Service rule of a fixed age for retirement?—The body of masters have said "No" in their answer. My own personal opinion is strongly this, that the duties of the masters and clerks, as you can see, are purely intellectual, and the longer a master or a clerk goes on with those duties the more experience he gets, and, what is quite as important experience, tact, patience, and those qualities which are absolutely necessary to get through the work without friction. It seems to me, as long as a man has those qualities, what is the use of compelling him to retire? I do not like being personal; I am 66 myself, but I am worth twice as much as I was as a master 20 years ago.

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44,970. Putting aside for the moment any present masters or clerks, have you ever in the past known any master or clerk stopping on after he was past his best work?—That is a very difficult question to answer.

44,971. Putting aside any present members of the office?—That is a matter of opinion. I do not suppose their own opinion would be that, as a rule.

44,972. Is not that the difficulty which arises—sometimes a man's own opinion on the subject does not coincide with the opinions of others?—No, but I think he is made to learn their opinion, and I think he goes. I know one or two cases where that opinion has been conveyed politely to the gentleman, and, reluctantly, he has retired, and some of them live a long time after, too.

44,973. Your opinion is that there is no necessity for imposing an age limit?—That is our opinion, I think. I cannot contend for a minute that when a man is past his duties, whether a master or a clerk, he ought not to go. I quite agree he ought to go, and when either I or my friends come to that conclusion about myself, I shall go, but not until then.

44,974. (*Mr. Matheson.*) You said there were instances of fully qualified solicitors acting as clerks?—Yes, I think I know one or two solicitors.

44,975. Did they come in as third class clerks, or at what stage?—One man I am thinking about, and whom I know very well, I think came in as a third class clerk.

44,976. Having got his qualification before he came in?—Yes.

44,977. Do you think that if the prospects of promotion were better, there would be more instances of that sort?—Yes, I think there would be; but I think the man who is article'd and who intends to be a solicitor and likes it is very much wanting in ambition if he were to come into the Chancery chambers, where the utmost he can get is 600*l.* a year. I do not think solicitors, as a rule, would be content with making 600*l.* a year.

44,978. What do you consider is the attendance of your clerks. What sort of hours do they keep in the day?—They are obliged to keep certain hours. There is a book. They have to be there from 10 to 4. They have to sign a book.

44,979. Supposing you want to keep them after 4? They have to stay if I want them after 4, and they willingly do that.

44,980. There is no system of overtime?—There is no payment for overtime, but they are all very conscientious men. The idea of every one of us is to get the work done. We are obliged to get the work done; if we do not get it done there are complaints. The judges complain and send for us, and want to know why there is any delay.

44,981. (*Mr. Coward.*) First of all, a word with regard to the appointment of the masters. Formerly was it not the judge who appointed the masters?—Yes, I believe it was before the Judicature Act.

44,982. Can you tell us whether that system worked satisfactorily or not?—Yes, I think that worked satisfactorily.

44,983. The judges are accustomed to have the managing clerks of the solicitors before them?—They are.

44,984. And they know their capacity and know all about them?—That is so.

44,985. And are able to form their own conclusions?—Yes.

44,986. So that if there was a vacancy in the office, one would think that no one could be more able to determine who was a fit man than the judge who had heard these people constantly?—Yes.

44,987. Of course the appointments would be made from the offices of solicitors of large practice?—Yes.

44,988. And I suppose nobody would think that anyone could know of their fitness better than the judge before whom these people come?—The judge would know, and we know too.

44,989. I suggest to you that it would be very desirable that the judge should have a voice in these appointments?—Yes; they had it once. That is a question, of course, between the judges and the Lord Chancellor.

44,990. The Chairman asked you as to appointments from the Bar to masterships. I think perhaps you will agree with me that the men at the bar who have been 10 years or any lengthy time at the bar, if they had succeeded, would not want to take a master's place, because the prizes at the bar are so high?—They certainly would not.

44,991. Again, if they had not been successful their experience would be slight, certainly compared with the experience that a man in a large solicitor's office would have?—Certainly. They would not have the business experience.

44,992. You have rather astonished me upon one point, and that is the very long hours that are kept by the masters in chambers. At 11 o'clock you begin?—I get there at half-past 10, and then I have all sorts of things to do.

44,993. I suppose your first appointment would be at 11 o'clock?—Yes, as a rule, except in urgent cases. I might see a solicitor at a quarter to 11.

44,994. And your last appointment would be about 3.30 or a quarter to 4?—Yes; I confine the afternoon to long appointments.

44,995. How many masters should I find, out of all the masters, if I went down there at five minutes past 4 to-day, doing work?—You would find a good many there.

44,996. Should I really?—You would very likely find me there. I seldom, on an early day, leave before half-past 4. There is always something to do.

44,997. It is not an overworked office, is it? I do not wish to say anything unkind about it?—I do not know. It is a very well-worked office. I have plenty to do.

44,998. Then the vacations are very long?—Yes; but our work, as I explained to the Commission, is not only from 10 to 4; about every month I, and so do my colleagues, have some sort of case upon which we have to work a good many hours and a great number of days altogether. That does not occur every day. It is a well-worked office—I will put it in that way. I do not want to exaggerate it; but I know, because I have been there 29 years.

44,999. Nice short hours and good long vacations?—No, and yes.

45,000. There is another thing arising out of this question of vacations which I think I ought to suggest. There are altogether in the Chancery Masters' Office 60 people—masters and clerks?—Yes.

45,001. In the Long Vacation of ten weeks there is one master there?—Yes.

45,002. And a clerk or two?—All that master's staff of four clerks.

45,003. His particular staff?—His particular staff.

45,004. That is to say, two first class clerks, one second and one third class clerk?—Yes.

45,005. But all the others are away for the ten weeks?—Yes, they are away.

45,006. Except that the masters interchange?—Yes.

45,007. With regard to the work that is done by the masters. I am not at all sure that the Commissioners quite understand it. Every attendance before you, and every time you are engaged upon any work, the solicitors or the solicitors' clerks are before you?—Yes, and often counsel.

45,008. You deal with those matters just as if you were a judge?—Yes.

45,009. So when you talk about exercising your discretion you are exercising your discretion upon affidavits that are brought forward by them and arguments addressed to you by them?—That is so.

45,010. It is not your discretion in any other sense than that?—No, I mean it is founded on the principles of English justice.

45,011. On every application that comes before you that is one of real difficulty, as a rule you do not have to exercise your discretion or your judgment upon it, because it is always adjourned to the judge—speaking generally?—There are certain things that by the rules have to be adjourned to the judge, and we have to prepare notes and see that the right parties are there, and assist the judge generally.

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45,012. Take for instance such a question as arises upon the Trading with the Enemy Amendment Act passed the other day; you adjourn it to the judge?—Yes, that is a new Act. But I ought to explain that, as you know quite as well as I do, just as great difficulties arise in “accounts and inquiries” as in matters before the judge.

45,013. But all these things are done in precisely the same way; in all “accounts and inquiries” you have the vouchers, and all the vouching of the accounts is done by your juniors?—Yes, but there may be difficult questions of principle on an account.

45,014. If it comes to be a difficult question of principle, the master would decide it or refer it to the judge?—The practice now is to certify. The judges will not have the questions thrown at them. You have to certify on most difficult questions, on the law of partnership and other things.

45,015. With regard to the appointment of these clerks, if you are going to appoint from the third class to the second class you have got only 12 clerks from which to make the selection?—Yes.

45,016. Would you not be much more likely to get a satisfactory clerk to go into the second class if you had a more extended range from which to select him?—That is so.

45,017. Instead of taking one from 12, there being 5,000 in the City of London from whom you might select, would not you get a better selection?—Yes, you would.

45,018. I should think it speaks for itself?—Yes, I think you would, only you see the little unfairness in that to the third class man.

45,019. I do not know that there is more unfairness there than there would be, for instance, in my office. I do not see any distinction to be drawn at all. Why should there be?—Supposing you have a very capable man.

45,020. Then he would go up?—If you have a very capable third class clerk, it is a little bit hard on him if his promotion is retarded by a man being appointed *per saltum* to a second class clerkship.

45,021. What you have to consider is not his promotion, but what is going to be most beneficial to the Service?—But to treat people fairly is beneficial.

45,022. At any rate, there is the point?—Some of my colleagues have little differences of opinion about that.

45,023. There may be a question as to whether all these clerks who are in this office are really essential for this purpose, because you must remember they have very short hours and very long vacations?—I cannot guarantee the work of my chambers being done as well as it has been done for nearly 29 years if you take away any of my clerks; it will be done, of course.

45,024. I think you would agree with me in this, that the more experienced the man the more efficiently will the work be done, and the more economically in point of time?—Yes, I agree with that.

45,025. (Mr. Graham Wallas.) Your clerks are appointed at the same salary as the clerks in the Central Office?—Yes; I think so.

45,026. I suppose the men appointed to the two offices are about the same kind of men?—Yes; I should think so. I have nothing to do with appointments in the Central Office.

45,027. Of your clerks one-half are in the first class, but in the Central Office one-sixth are in the first class?—Yes; I believe that is so.

45,028. Do you think there is some reason why you should have more first class men than the Central Office?—Yes; because there is quite enough of what I call difficult work for two first class men to do; that is to say, the most difficult work, which I think must be entrusted to a first class clerk, requires two men to do it. I think the work that one of my first class men does is equally as difficult as the work done by the other first class clerk.

45,029. In your judgment there is a larger proportion of difficult work to be done in your department than in the Central Office?—There is no doubt whatever about that.

45,030. And, therefore, the men ought to be paid more?—Certainly.

45,031. But they are the same type of men, and appointed under the same conditions?—Yes; the same type of men, only more experienced.

45,032. When the clerks become candidates they are referred by the Lord Chancellor to the senior master?—Yes, they have been by Lord Haldane, but not before, I think.

45,033. How long have you been senior master?—Two years ago last October. I became senior master in October 1912.

45,034. You put the clerks through a careful examination as to their qualifications?—Yes; as severe an examination as I can.

45,035. And that careful examination of their qualifications is, in your judgment, a better guarantee of capacity than a competitive examination would be?—Yes; I think so.

45,036. Since you have been senior master one clerk has been appointed in the chambers of the Chancery judges?—Yes.

45,037. He was therefore referred to you?—I suppose he was; but I have the answers of all the candidates carefully kept in a drawer, and I can tell you for certain whether he was.

45,038. Was he a solicitor's clerk?—There are so many of them I cannot tell without reference to my list, but I will look it up and let you know.

45,039. I see by the list that two have been appointed since you have been there?—Yes, and according to the regulations they ought to have been referred to me.

45,040. When you put them through your severe examination into their qualifications it constituted a better guarantee of their efficiency than any possible competitive examination?—Yes, I put very practical questions.

45,041. Was the second one a solicitor's clerk?—I am sorry to say I cannot tell without looking at the file. I have all the questions and their answers. I shall be very pleased to let the Chairman know.

45,042. Can you tell me when the second one was appointed?—All I know about their appointments is the fact of their coming to me, and then I do not know anything further about them unless they come to my chambers. I should only hear by accident about their being appointed in any other chambers.

45,043. The second one must have been appointed a few weeks ago, because his name is added in manuscript on our list?—I will look at my list and send the particulars to the Chairman.

45,044. I was anxious to discover what trace the process had left on your memory?—About thirty have been before me, and the qualifications are all so much alike.

45,045. Each master has attached to him a group of four clerks?—Yes.

45,046. When a third class clerk in that group becomes qualified for the second class, is he moved to a second class vacancy in another group, or is he retained in the original group?—He is moved to wherever the vacancy occurs. If he is in my division and the vacancy is in the division of, say, Master Fox (who happens to be here) he would take the vacancy in Master Fox's division and I should have a fresh third class clerk sent to me.

45,047. But are clerks ever moved for any other reason than promotion from one master to another—for instance, to gain experience?—No, generally speaking it is to fill up vacancies. I do not think they are moved for any other reasons.

45,048. Do you ever in your work employ a shorthand secretary?—No.

45,049. Do you think it would help you in your work if you did?—Curiously enough I do not think it would, because we have to write down our opinions and the principal data in coming to our decisions, and I think it would only worry me to have a clerk sitting by me. I can put it down just as quickly. There is a good deal of correspondence, but I generally draft it, and can do that almost as quickly as a shorthand writer. He would be a luxury perhaps if we had him,

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but he might not be employed, and if not employed he would be a nuisance.

45,050. Before the masters in Chancery were appointed your predecessors were called chief clerks?—Yes.

45,051. And those chief clerks were appointed by the Chancery judges?—Yes, they were in that day.

45,052. That, you think, is a custom which might be revived?—That is a delicate question between the Lord Chancellor and the Chancery judges. I fancy some of the Chancery judges think it is a mistake that it was altered.

45,053. You say the judges did in fact know all about the various solicitors who appeared before them?—They would have equal opportunity of gaining knowledge as we have.

45,054. As a fact was not it an accident of that widely extended knowledge that they almost invariably appointed relatives of their own or their wives to these posts?—That is a criticism of my superiors. I do not think I can well answer that. It is like a colonel; he must not challenge what his general says or does.

45,055. (*Mr. Philip Snowden.*) Did I understand you to say that you had been 29 years in your present position?—To be quite correct, 28 years and eight months. It will be 29 years in June.

45,056. Were you a solicitor in practice before that?—I was.

45,057. Might I ask what age you were when you went into the Chancery chambers?—About 37½.

45,058. Did you go straight to the position of a master?—Yes.

45,059. Do you remember what your initial salary was?—It was 1,200*l.* a year.

45,060. Do you remember the circumstances of your nomination?—Yes.

45,061. By whom were you nominated?—I was nominated by the Lord Chancellor.

45,062. Do you remember the way in which you approached the Lord Chancellor, or how you succeeded in getting a nomination?—I had, of course, some good influence. I think Lord Morley of Blackburn was one of those who assisted me to get my appointment.

45,063. (*Mr. Holt.*) Lord Herschell was Lord Chancellor at the time?—Yes.

45,064. (*Mr. Philip Snowden.*) And your qualification was that you had been a solicitor?—I had been a solicitor for over 10 years. I made my own practice.

45,065. Was that statutory condition we have heard of this morning in operation at that time?—Yes, it always has been since the Act of 15 and 16 Victoria which constituted the masters.

45,066. Have you ever known of any case where an official, subordinate to a master, has been appointed to the position of a master?—No; he cannot be, because he has not got the qualification, which must be 10 years' practice as a solicitor.

45,067. I understood you to say that all the masters except one have leave during the vacations?—Yes, during the Long Vacation and the Christmas Vacation; but during the Easter and Whitsun Vacations there are three of us there.

45,068. But all the clerks are still at the office when the master is away?—No, the clerks are away, too. The masters in attendance and their own individual staffs are there, but the other masters and their staffs are away.

45,069. Do I understand that during the vacation the only clerks who are there are the clerks serving under the master who happens to be there?—That is so.

45,070. All the other clerks are on vacation also?—Yes, they are away.

45,071. Including third class clerks?—Yes, all the other clerks are away.

45,072. Am I to understand then that the third class clerks will get, say, 10 weeks' vacation in the year?—Yes, they get nearly the same vacation as we do, except that they may have to stay a day or two later and come back a day or two earlier.

45,073. And in addition to this vacation holiday are they entitled to any ordinary leave during the sittings of the courts?—No, they have no right to that except for illness.

45,074. Are all your third class clerks men who have served in a solicitor's office?—No, not all.

45,075. But I understand you to say that you look upon that as being a very necessary qualification for a third class clerk?—Yes, we do.

45,076. Then will you explain why clerks have been appointed who have not this essential qualification?—I think you will have to ask the Lord Chancellor.

45,077. But I understood that you and one or two of your colleagues were the selection committee?—For promotion we are, but not for appointment. With regard to appointments, since Lord Haldane came into office he sends candidates for appointment to me to be examined.

45,078. Precisely; and then Lord Haldane acts upon your recommendation?—He has his own discretion about that.

45,079. That I understand, but he must to a certain extent be guided by your decision?—I think that is his desire, and he endeavours to follow it.

45,080. Have any candidates been sent to you by Lord Haldane who did not possess the qualification of previous experience in a solicitor's office?—Yes.

45,081. Then how do you reconcile that with your statement that you regard such experience as being absolutely necessary, and that, if a clerk appointed does not possess that experience, he is a nuisance to the office for three years?—We regard it as the necessary qualification, but we are not the actual appointing parties.

45,082. That I quite understand, but have you approved candidates that Lord Haldane sent to you who have not had that previous experience in a solicitor's office? You have had 30 candidates before you, you say?—I have reported more favourably as to candidates who have been in a solicitor's office than I have with respect to those who have not. I have always told the Lord Chancellor that that was a great drawback, but I have told him that they had other qualifications, and then it is entirely in the discretion of the Lord Chancellor whether he appoints them or not.

45,083. But they have been appointed?—I am not aware that any have been appointed recently. This new system has been only going on about two years. I must make further inquiries about it.

45,084. (*Chairman.*) It would be convenient to the Commission if you would give us a list of the appointments in the last 10 years, showing in which cases candidates have had experience in a solicitor's office, and in which cases they have not, and what was the length of their experience. Perhaps it would also be convenient if you added in each case the age of the candidate at the time of appointment?—Yes, I will let you know that.

45,085. (*Mr. Philip Snowden.*) Have you an age limit for candidates?—Are you referring to the masters?

45,086. No, to third class clerks?—I am not aware of any age limit.

45,087. Do you make appointments direct to the second and first classes?—We never make the appointments; the Lord Chancellor makes the appointments.

45,088. Does anybody make appointments direct to the second and first classes?—Yes, there have been some such appointments made. I can find that out for you.

45,089. (*Chairman.*) Perhaps you will add to the paper you are going to give us details of any appointments made direct to the second or first class during the last 10 years?—Yes. I remember before the 10 years one solicitor being put into a second class clerkship.

45,090. (*Mr. Philip Snowden.*) You told us you thought that your system of ascertaining the capacity of a candidate by personal interview was better than any system of examination. Could you give us some idea of the method you adopt when a candidate comes before you. What is the nature of your own examination as to his capacity?—I did not know that I should be asked the question, and I am sorry I have not brought the form of questions with me. I was supplied by Mr. Liddell, the Lord Chancellor's private secretary,

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with a list of questions, and those are the questions I put to the candidates.

45,091. Could you supply the Commission with a copy of that form of questions?—Certainly I will. As I recollect the questions they are, of course, name and address, age, what education, what experience legal or otherwise, what certificates of merit and capacity. Those are the principal questions that come to my mind at the moment.

45,092. In coming to a conclusion as to the fitness of a candidate for appointment, are you guided at all by your general impression gathered from conversation with him?—Yes, to a large extent, certainly, by my general impression of him. I may tell you that as to the first two or three candidates I took the trouble to go and see the people from whom they came. But the Lord Chancellor told me not to take quite so much trouble as that; he was satisfied if I got answers according to the form he gave me, but I still make inquiries a little beyond; I ask other clerks whether they know the man and what they think of him, but I no longer go to their principal, whoever he is.

45,093. The initial salary for a third class clerk is 100*l.* a year?—Yes.

45,094. And, generally speaking, you insist upon five years' experience in a solicitor's office?—That is what we think is proper.

45,095. Do you think that an initial salary of 100*l.* a year, with no very rosy prospects, and in view of the fact that they have had five years' experience in a solicitor's office, is sufficient to attract men of capacity?—No, I do not think it is. I think we have expressed in our evidence an opinion that it is not enough.

45,096. I see in your evidence you make some reference to clerks being brought in from other Government departments?—Yes.

45,097. Is that a fairly common practice?—Yes, I think it takes place fairly often.

45,098. But these transfers are only made on the recommendation of the Lord Chancellor, I assume?—That is all.

45,099. That is to say, these candidates have to go through precisely the same form as though they were not in the Government service already?—Of course they would have to pass their Civil Service examination first, but they would not be sent again to me to be examined. I have a list I might hand in, and you will see when they were appointed in the public service and when appointed to Chancery chambers (*handing in a list*).

45,100. I see the masters are unanimously of opinion that an age limit for retirement is not desirable?—That is so.

45,101. What is their reason for that?—We do not give any joint reason. I have given mine—that the duties are entirely intellectual, and that the older a man gets, as I said before, the more experience he gets, and the more tact he gets, and, as long as he continues to possess all those qualities, he is qualified to hold his post.

45,102. You know there is a general Civil Service rule of retirement at 65 years of age and after 40 years' service?—Yes.

45,103. Can you give me the reason why that should apply generally throughout the public service and not apply to your department? The reason you gave just now was that the longer a man is in the Service the greater knowledge he acquires, and, therefore, if compulsorily retired, he would be a loss?—As I have said, it is expert knowledge that is wanted in chambers, and in time they get more of that expert knowledge, like, for instance, an eminent surgeon who, I suppose, gets more experience every day, or an eminent professional man of any sort, up to a point, and then, I suppose, he declines like many unfortunately do.

45,104. Then, if we all decline when we have reached a certain point, would not you consider that a strong argument why a man should be compulsorily retired at an age when his faculties are likely to be impaired?—I agree when they have become impaired, but I have been looking at the ages and I happen to know a particular gentleman whose age is put at 71, and I know he has always been a very first-rate clerk, and, as far as I can see, he seems as alert as ever. I should say, so far as I

know, he is quite as efficient as he ever was, *plus* more experience.

45,105. But I suppose the men who are below him in the scale consider that he is stopping the way of their promotion?—Yes, that may be so.

45,106. Although one might assume what your reply to this question would be, do you consider that the number of first class clerks and masters is not an unnecessary proportion of the total staff?—No, the number of masters and first class clerks I think are wanted to cope with the business.

45,107. What are your views about the question of the removal of the statutory qualification and thereby opening the way to the mastership for well-qualified first class clerks. Supposing, for instance, a first class clerk has been in the office for 20 or 25 years and has turned out to be an exceptionally able man, do you not think it desirable that the barrier should be removed which now blocks the way for further promotion for that man?—Generally speaking, I am averse to a barrier against any man who has ability; I can only say that the only difficulty I can see is that a clerk, however good he may be, has not had the experience that a master, who has been for 10 years a solicitor, has—the experience of responsibility and relying on his own judgment, and the clerk does not get any more experience of that particular character, of relying on his own judgment, as a clerk in chambers because he never does rely on his own judgment over anything that is difficult. I do not say that he might not be right, but he never does so rely; that is all I can say. I should imagine that a man who is constantly exercising the function of relying on himself and coming to a decision is more likely to be practised in so doing than a clerk who has never done it. I believe one of the most necessary qualities for anybody in the position of a master or a judge is to be able to come to a decision. There are heaps of very clever men I have known who cannot come to a decision at all. Therefore the quality of coming to a determined decision is very necessary in my opinion.

45,108. They belong to the class, I assume, who would not have any hesitation in coming to a decision provided they heard only one side of the case?—No judge or master would be foolish enough to say a word until he had heard both sides—I never do. You have touched upon a very delicate question, and that is the matter of my own appointment; I never expected to be asked, but as the subject has been broached I think I must say a little more about it.

45,109. (*Chairman.*) I do not think it necessary for us to go into the particular instance of your appointment, but if there is anything bearing on the general question which you wish to add we shall be glad to hear it?—I had other practical supporters; my cousin, the late retired Lord Justice Romer, supported me, and my brother-in-law, who was a master, who of course knew me and my capacity very well, supported me. I was also supported by the late Sir William Agnew, who knew me better than anybody else, because I had acted as his solicitor for 10 years in London, and anybody who knew Sir William Agnew knew he was a pretty shrewd judge of the capacity of a man to do business, and of his practical experience. I also had about 20 or 30 certificates from counsel and solicitors who knew me very well. I should add that I passed in honours at my final examination for solicitor. So that I had plenty of credentials. I remember also that I was going to be appointed to the chambers of Mr. Justice Kay, a very shrewd judge, and I had an interview with him. So, I think, there was pretty searching criticism.

(*Mr. Philip Snowden.*) I am obliged to you for that information; I think it is very illuminating.

45,110. (*Mr. Boutwood.*) There was one point in your evidence I did not quite follow, and that was about the appointments when the Lord Chancellor refers men to you. Do I understand that candidates for third class clerkships specify which side of the Court, whether King's Bench or Chancery, they wish to be appointed to, or do they simply make a general application?—Clerks applying for the King's Bench, I think I am right in saying, would go to Sir John Macdonell, the senior master of the King's Bench Division.

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45,111. So when a clerk applies for appointment in the Supreme Court he does specify whether he wants to go to the Chancery or the King's Bench side?—I should think he would specify if he wanted the King's Bench or the Chancery. If Chancery he would be sent to me. Some of them have a very vague idea where they want to go, but they want to get somewhere—I have had some of them—and they would come to me very likely.

45,112. This list you have handed in seems to be a list of your 12 third class clerks, but the question put to you was about the clerks who had been brought into the second class from other Government offices. This list does not throw any light on that?—That was only prepared for our guidance in advising the Lord Chancellor about promotions, so that we could judge how long they had been in the public service and how long in Chancery chambers. You will see it referred to in our evidence as to the methods of promotion. It does not pretend to go any further.

45,113. But one wants to know about appointments from the other Government departments to second class clerkships. I should like to know: (1) How many of those appointments have been made; (2) Were they first class or second class men, or writers, and what was their position in the other Government departments; and (3) did they have to go through the usual Civil Service examination? Those three points arise on that, and this list, of course, does not help one?—I am going to give the Chairman a list of appointments for the last 10 years.

45,114. That is to be a list of appointments during the last 10 years to the third class, but now we are talking about appointments from other Government departments directly to second or first class. That is a separate thing?—I can get that if you like. I cannot answer it off-hand.

45,115. (*Chairman.*) You are going to give particulars of all direct appointments to the first and second class in the last ten years. Perhaps you will add whether the clerks so appointed had had any previous service in any Government department, and, if so, what?—Yes.

45,116. (*Mr. Boutwood.*) Do you know what happens when a man is brought in from another department? Is he brought in under Clause 7, or does he have to sit at your usual examination?—I should say if he has not passed the Civil Service examination, he would have to pass it.

45,117. But you have not had to deal with a case like that yourself?—No.

45,118. There is another thing in this statement you handed in which I do not quite understand. One sentence reads as though promotions were rather slower in the Chancery chambers than in the Central Office, because you say, "Complaints have been made that at the present time there are clerks in Chancery chambers who have served over 14 years, whereas in the Central Office the longest service of a third class clerk is under eight years." That looks like a complaint of slow promotion?—Yes; in Chancery chambers it is a complaint of slow promotion.

45,119. You have only 12 third class clerks, 12 second, and 24 first. Those figures suggest fairly rapid promotion. They suggest that the clerks in chambers ought to have better chances than the clerks in the Central Office, where there are fewer higher posts. Why is it that promotion is slower in Chancery chambers than in the Central Office?—I believe one of the causes is by promotion right away to second or first class clerkships. Another cause is men being brought into the third class from other Government departments, and also the fact, I suppose, that the staff is not nearly so large, being only about 60 in Chancery chambers, whereas, in the Central Office, it is very much larger. Of course, promotion in a smaller body would not be so quick as in a larger body, and lawyers are all very long-lived people, too—after clergymen—which is another reason.

45,120. (*Mr. Holt.*) When the office of master falls vacant, is there any general public advertisement issued that there is a vacancy for a master, and are applications invited?—No.

45,121. Therefore the applicants are confined to persons who get private information on the subject?—Yes; I think so.

45,122. Are any of the present masters persons who were in practice in the provinces as solicitors, or were they all in practice in London?—I think all in London—looking through the names.

45,123. It is rather curious that no provincial solicitors should ever have been appointed to this position?—It is, when you look at it, but it never struck me before.

45,124. There are plenty of solicitors of repute and capacity in the provinces?—Undoubtedly; but there may have been some appointments before the present list.

45,125. Yes; but you are satisfied that none of the present masters were before appointment solicitors practising in the provinces?—Yes; I think so. It is quite possible that one or two of them may have practised in the country, but I do not think so.

45,126. But at any rate at the time of their appointment you believe they have been solicitors practising in London?—Yes.

45,127. Therefore in practice this appointment is not only confined to a solicitor of ten years' standing but is confined to a London solicitor?—I suppose that is the effect of it, but the country solicitor is equally qualified.

45,128. (*Mr. Coward.*) The country solicitors are not so familiar with the practice; probably that may be the answer to it?—Yes.

45,129. (*Mr. Holt.*) I only want the fact; it is for us to draw our own conclusions. When you became senior master, did you become senior master automatically or were you appointed to that position?—Simply automatically. Unfortunately I had been there the longest.

45,130. Supposing by any mischance you were run over in a street accident on the way back, would Master Fox proceed to step into your shoes to-morrow without a word being said by anybody?—Yes, he would have that misfortune.

45,131. Therefore it is not an office to which there is a definite appointment; the Lord Chancellor does not look through the list of masters and say, "That is the best man"?—No merit whatever; purely date of appointment.

45,132. It is mere seniority?—Yes, that is all.

45,133. In the same way when a clerk is appointed there is no public advertisement?—No.

45,134. Supposing one of your clerks retires or dies, what happens next? Do you represent to the Lord Chancellor that you want another clerk?—Yes, I should represent to Sir Kenneth Muir Mackenzie that there was a vacancy.

45,135. What would happen then?—He would probably consult me about filling it, and no doubt consult the Lord Chancellor too.

45,136. Supposing your clerk was killed or died suddenly, how long would it be before you got another one?—I dare say it would be a month; they take a little time to consider.

45,137. Supposing you lost a clerk by retirement, of which you no doubt get considerable notice?—Yes.

45,138. Would you then have another clerk to come in the day the old man goes out?—No, not the next day, but probably the same thing would happen, as I have described if death happened. There would be a consultation, and then of course it would mean promotion probably. Then I should call a meeting of the sub-committee of the masters to say who in their opinion ought to be appointed, in which case we should consider the question of priority and fitness, and all that.

45,139. Supposing the vacancy arises as the result of an anticipated retirement, are the steps necessary for filling the vacancy taken in advance of the actual retirement or only when the actual retirement has taken place?—I do not know, but I suppose if I knew that a man was going in a few months I should consult Sir Kenneth Muir Mackenzie about it, and then we should call a meeting of the sub-committee and give

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the Lord Chancellor an opinion as to who should be promoted. There would be no public notice given.

45,140. With regard to office hours, am I right in inferring that, as a general rule, in your office you take about one hour for lunch or thereabouts?—They are not supposed to take an hour.

45,141. I notice in this list of appointments that, roughly speaking, no appointment is made between 12.30 and 2 o'clock, which rather suggests one hour for lunch?—That is a list of one of the masters. I can explain that. That 12.30 appointment will very likely last until about half-past one. It is just to allow the master time to get lunch; he does not take very long at lunch. We are too busy; we are only too glad to get back.

45,142. Now in this paper you have handed in I see on Tuesday, 16 February, at 11 o'clock you had three appointments which lasted a quarter of an hour altogether?—Yes, those hours are simply approximate.

45,143. Then those three could not have been very difficult cases?—You cannot tell at all how long a case will last. That time table is simply to oblige the solicitors by not bringing them there before the time. It is no criterion whatever of the length the case will take. We endeavour to put the short appointments in in the morning. I generally have short appointments at 11 and half-past, and then I have about three half-hour appointments, or cases which I think will be about half an hour each.

45,144. Do you remember what happened last Tuesday?—No; I have so many cases. I have my notes of everything and I could tell you on reference.

45,145. You have handed in your own list of the appointments. Your own cases are ruled out, does that mean that you succeeded in attending to them and the business was done?—Yes, that means that the business was got rid of that day.

45,146. You had three cases at 11 o'clock; there were two more at a quarter-past 11; two more at half-past 11; and one at 11.45?—Yes, they are on the paper.

45,147. If there were, roughly speaking, eight cases put through in an hour, they could not have been exceedingly difficult?—But those cases are not disposed of between those times; they may go on much longer. You cannot say how long a case will take; it is quite approximate. You may have a case down there which is very urgent or something, and which will take an hour. Any of those three cases down at a certain time might take three-quarters of an hour or an hour.

45,148. This is an estimate of time which is probably based upon an average of what takes place?—Yes.

45,149. Therefore, taken as an average, it must be approximately correct?—Yes.

45,150. I see Master Ridsdale estimated he would get through seven cases between 11 and 11.30?—Yes.

45,151. If that is so, they could not be very difficult or intricate cases?—I cannot say how any other master arranges his list at all. I cannot answer for him. He is a very able master, but I cannot answer as to how he does his cases.

45,152. But the morning cases for all the masters right through the list show that on an average they are estimated to take something between five and ten minutes a case, ten minutes being rather above than below the average?—Yes, they are put down like that.

45,153. That is the length of time these cases do take?—Yes; but, generally speaking, most of them last a good deal longer.

45,154. There is a gentleman in the master's department—in Master Keen's department—called Mr. Hare; he is a first class clerk, and under his name I see this put down for his appointment, "2.30 to 4, Jury."

Does "jury" mean that he is going to hear a case with a jury?—I cannot speak about any other master's list than my own. If you want to know about another master's list not my own, I think you must ask the master to explain.

45,155. Look at the entry and tell me is the word "Jury" accidentally the name of a person, or does it mean that he is going to hear a case with a jury?—That is the name of the plaintiff.

45,156. Would a clerk ever hear a case with a jury?—No.

(Mr. Coward.) Nor would a master have a case with a jury.

45,157. (Mr. Holt.) I find that this Mr. Hare was going to hear a case that was estimated to take one and a half hours?—Yes.

45,158. That would involve a considerable degree of professional knowledge and skill?—Yes. He is a first class clerk, and that would probably mean taking accounts and vouching them, or preparing a draft certificate in answer to accounts, or preparing any other certificate made by the master on a pedigree or anything else.

45,159. When you hear these cases which are put down opposite your name, is one of your clerks present in the room?—No, I sit alone.

45,160. You sit alone, and you yourself record your decision?—Yes, I put it down and make elaborate notes. We put it all down ourselves.

45,161. In longhand?—Yes, we make the notes as concise as possible. The clerk does the framework of the notes for us, what the appointment is about, and the name of the solicitors and the master, if the solicitors appear, puts down that they have appeared, and then they read affidavits, and it is our business to put the affidavits on the notes very shortly and then make a few notes during the argument, which are useful to assist us in the case. Then we say, we "order so and so," and we give the concise epitome of the order which we make.

45,162. Then, when you are dealing with these cases, you get no assistance from your clerk at all, and he does not see what you are doing or how you are doing it?—No, we do not want him then. He is busy doing his own work.

45,163. But it is no part of his work to assist you in your judicial duties?—No.

45,164. (Mr. Shipley.) Do you consider the accommodation for your clerks is satisfactory, that the rooms are well ventilated, well lit, and well cleaned?—Yes, they all have most excellent and healthy rooms, I think. As I said before, I got the best in the building. There are attendants there, and I think the rooms are fairly well cleaned.

45,165. It struck me, yesterday, that the rooms looked rather dark?—Some of them are, but I am glad to say mine are not.

45,166. (Chairman.) That is all we have to ask you.—Do you wish to see any of these other documents which I have brought?

45,167. Perhaps you will leave them with the Commission, and we will return them to you?—This first set of documents is an inquiry as to who are entitled on a pedigree to payments. There is also a foreclosure order, and a redemption order. Most elaborate inquiries have to be made when you have a first and second subsequent mortgagees, giving them all periods to redeem. Those are very complicated, and I may say, with regard to those orders, if there is the slightest error of a figure in those orders, the whole thing has to be done over again, and perhaps nine months' time is wasted. The other papers are an administration order, and a partition order [handing in the documents].

Mr. CHARLES EDWARD FARMER, called and examined.

45,168. (Chairman.) What is the post you occupy?—I am Senior Registrar in the Chancery Division.

45,169. How long have you held that post?—I have held the post of senior registrar two years.

45,170. And for what period have you been registrar?—Since the year 1889.

45,171. First, will you tell us what the statutory position of the registrars and their clerks is?—The statutory position is this: we have always considered that we came under 5 Victoria, cap. 5. No one could be promoted to a registrarship except under that Act.

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[Continued.]

45,172. Perhaps you will read the section or the words that apply to the office of registrar?—It is the 38th Section: "And whereas by an Act passed in the fourth year of the reign of His Majesty King William the Fourth intituled an Act for the regulation of the proceedings and practice of certain offices of the High Court of Chancery, six Registrars of the said Court of Chancery were appointed, and provision was thereby made for filling up vacancies in the office of Registrar of the said Court: And whereas it is expedient and necessary that the number of Registrars of the said Court of Chancery should be increased; be it therefore enacted, That from and after the said 15th day of October one thousand eight hundred and forty-one there shall be ten Registrars of the said Court," and the names of the ten registrars are given.

45,173. Without going through the whole of the words, perhaps you will tell us the effect of it. Is it the effect that a certain number of registrars and a certain number of clerks were appointed?—Yes, ten registrars are appointed by that section.

45,174. And for appointment to registrar previous service as a clerk was indispensable?—That is so.

45,175. And the clerks had a statutory right of succession to the registrarship?—That is so.

45,176. Was there any statutory qualification for appointment as a clerk?—The qualification for appointment as a clerk is in the 41st Section, which says: "That the Lord Chancellor shall appoint some proper person who shall have been admitted and entered on the Roll of Solicitors or Attorneys of some one of Her Majesty's Courts in Westminster Hall, or who shall have duly served a term of not less than five years under Articles of Clerkship to some Solicitor or Attorney of some one of the said Courts." That is the section under which a clerkship is held.

45,177. That is to say, the candidate must be an admitted solicitor, or must have served a term of five years under articles?—That is so.

45,178. Does that statutory right of succession to the registrarship still exist?—We maintain it does. I should like to qualify that. It does not exist as regards all the clerks now appointed, because they were appointed without right of succession. I am wrong in saying it does exist, but if a man is appointed a registrar, he can only be appointed under this Act. I should like to make that clear.

45,179. Do any of the present clerks enjoy that statutory right?—I think none of the present clerks have any statutory right of succession.

45,180. I see in the memorandum prepared by Sir Kenneth Muir Mackenzie for the Kekewich Commission in 1907 it is stated: "There is at this moment only one of the principal clerks with the statutory right of succession to a registrarship; five others have been appointed with notice that they have no vested right of succession; three others have been appointed simply as second class clerks in the Supreme Court, and have no better rights than any other clerks in the Chancery Division, except the advantage and opportunity which any of them has of showing himself to be a desirable man to retain and promote in the department." May we take that as a correct statement of the position at that time?—That is correct.

45,181. Has the one principal clerk who had then the statutory right been since appointed registrar?—He has.

45,182. So at the present moment none of them have the statutory right of succession?—None of them.

45,183. There is a point of nomenclature which I should like to clear up. You speak in your précis of evidence of "principal clerks." In the Establishment Book which we have before us it speaks of "clerks to registrars"?—"Principal clerks" is a conventional term to distinguish them from assistant clerks.

45,184. Is "principal clerks" synonymous with "clerks to registrars"?—That is so.

45,185. "Principal clerks" applies to those persons represented in the establishment list as "clerks to registrars"?—That is so.

45,186. Are the second and third class clerks otherwise known as "assistant clerks"?—No; second class

clerks are appointed where vacancies have occurred in the establishment. They have no right of succession; in fact they do not come on to the establishment until they get to be one of the first six clerks under the new arrangement.

45,187. What do you mean by the "establishment"?—The Treasury have said that the establishment shall consist of nine registrars and six principal clerks. The others are simply second class clerks appointed as second class clerks.

45,188. On the same footing as other second class clerks in the offices of the Supreme Court?—Precisely; they go up 15l. a year.

45,189. The "principal clerks" or "clerks to registrars," as otherwise called, have a separate scale of their own, which differs from the scale of first class clerks in the other offices?—Precisely so.

45,190. In order to be clear as to the present position, there are now how many registrars?—Nine.

45,191. That is including the senior registrar?—Including the senior registrar.

45,192. I think one of them has been appointed on a different scale of salary?—The junior registrar has been appointed on a different scale, and upon rather different terms, in this way: he was appointed at a salary of only 1,000l. a year, but when he was appointed at that salary Sir Kenneth Muir Mackenzie wrote to me to say that in three years' time he should then apply to the Treasury to put him in the same scale as the others—that is 1,250l., progressing by 50l. a year to 1,500l.

45,193. Was there also an intention to reduce the number of registrars when a further vacancy occurred?—What I understood him to say in his letter was, "Put him on the same scale whether there was any reduction or not."

45,194. Are you aware whether it is proposed to make a further reduction in the number?—The intention now is to reduce the number to eight registrars and eight principal clerks. Therefore, on the occurrence of another vacancy he will, as a matter of fact, go up to one of the eight, and be entitled to the full pay attached thereto.*

45,195. He would succeed to the full salary and one appointment would be suppressed?—I understood Sir Kenneth to mean that if in three years' time he did not succeed, he would then apply to the Treasury to raise him to the same scale as the others. I should like to add that there was put in the Order at his request a special note that he was not to hold his office after the age of 70. That condition was made in his case, and that was the first time the condition was made.

45,196. Has each registrar one clerk specially attached to him?—Each registrar has one clerk specially attached to him.

45,197. That is to say, the six principal clerks and three of the second class clerks?—Yes. The junior second class clerk has never yet been appointed. Sir Kenneth Muir Mackenzie wrote to me to say he was going to send down a man from the House of Lords who was a qualified solicitor to help; but the Lord Chancellor declined, pending this Commission, to fill up the vacancy. So he is appointed a second class clerk at 250l. a year, and he has not had any increase in the two years he has been there; that is to say, he has been without the usual increase of salary which is attaching to that post.

45,198. You have certain clerks who attend to particular business—a petition clerk and a clerk of entry, and one or two others with special duties of that kind?—Yes.

45,199. Are those clerks separated from the general body, or are they at the same time attached to a registrar?—They are separated entirely from the general body. They are separate clerks altogether. We used to have two clerks of entry, but now we only have one. It was thought the work could be done by one, and I think it can be.

* A letter, dated 24th February 1913, received from Sir Kenneth Muir Mackenzie, states that the Treasury were prepared to concur in an order constituting the office with eight registrars (not to take effect until the next vacancy), with a provision of eight senior and three second class clerks.—C. E. F.

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[Continued.]

45,200. How is that arranged. There are nine registrars, each of whom has one principal clerk and one third class clerk attached to him. There are six principal clerks, four second class clerks, and nine third class clerks. That would seem to leave only one clerk over after allowing one principal clerk and one assistant clerk for each registrar?—It is a little complicated. One registrar is without a third class clerk attached to him, and we have been unable to get him a clerk, because my immediate junior's clerk went, on the occasion of a vacancy at the entry seat, to that seat, and was made a second class clerk. We have never been able to get an appointment from the Treasury of a third class clerk in his place, so the result is that, as regards the junior registrar, they all take it in turns to go up to the seat; they make a sort of rota for him, and they take it in turns to go and assist at his seat.

45,201. Will you say generally what the work of the registrar is. It is partly in court and partly out of court, is it not?—I have sent in a statement as to the registrars' office and their duties as registrars, and that statement, I think, contains exactly what we have to do. I made it as short as I could.

45,202. What are the duties of a registrar in court?—He records the names of the witnesses, swears them, marks exhibits and other documents put in evidence, and notes the documents and evidence put in, and any objections to evidence, consents, waivers, submissions, or undertakings by counsel or directions by the Court. It is also the duty of the registrar to call the attention of the judge to any technical irregularity in the proceedings, and to any order proposed to be taken which seems to be a departure from the accustomed practice of the Court, and to any points which, from his experience of drawing up orders, he sees are likely to arise in formulating the order which the Court makes.

45,203. How many judges do you attend in court?—We have seven courts, six courts of first instance and one appeal court. Sometimes there are two appeal courts.

45,204. Is an appeal court sitting all the time?—Sometimes, when it takes work which is not Chancery work, of course we do not attend.

45,205. You only attend on its Chancery work?—Yes. Occasionally it may take appeals to help the King's Bench side, or workmen's compensation cases from County Courts. But we always attend the Appeal Court on all Chancery matters, and on all appeals from the Palatine courts and in company cases.

45,206. In the six Chancery courts is the registrar always in attendance when the Court is sitting?—Either the registrar or one of his qualified clerks.

45,207. Has a change recently been made which permits a clerk sometimes to discharge the duties in court?—That is under the new rule. After the Kekewich Committee reported, they passed a rule to that effect.

45,208. Does that relieve the registrars of any considerable part of their duty of attendance in court?—We can send our principal clerks into court when actions with witnesses are heard, but there was some feeling, I believe, by the judges, that they did not like a principal clerk in court when the non-witness lists were taken, and I think it is quite right.

45,209. The registrar has to take notes of all essential points in the progress of the action?—That is so.

45,210. And to keep the court straight on points of practice?—That is so.

45,211. Those are his principal duties?—Yes, and swearing witnesses, marking exhibits, and advising the judge upon all questions of practice that arise upon each case.

45,212. Swearing witnesses and marking exhibits are duties for the performance of which it would not be necessary to have a person of the calibre of a registrar?—Quite so.

45,213. As regards the duties out of court, is the principal duty the drawing up of orders on judgments?—Drawing up orders on judgments made in court.

45,214. Besides those made in court, what orders on judgments does a registrar draw up?—Judgments in Chancery actions tried at the assizes upon production of the associate's certificate, and orders on judgments

of official and special referees on production of a proper authority from the referee.

45,215. There are certain other classes of orders?—Yes. Orders made by the Lord Chancellor on petitions for transfer, and all orders made on petitions of course.

45,216. What is a petition of course?—That is a petition to tax a bill principally.

45,217. Besides those orders, do you draw up some of the orders made by masters?—All the masters' orders they send up to us.

45,218. What class of orders do they send you?—All orders dealing with funds in court we must draw, and all orders they choose to select to send us. I believe the Esher Committee in 1885 recommended that the orders should be drawn up in chambers, and there was a rule introduced for that purpose, but then the judges qualified that rule, and said that the only orders to be drawn up in chambers were procedure orders.

45,219. We have had it in evidence that roughly half the number of orders made in chambers are drawn up in chambers, and half are sent to the registrars to be drawn up. Would you agree with that estimate?—Last year the number of orders made in chambers by the masters and entered in our office was 2,512. The total number of written orders which were entered in our office—not printed orders—were 5,520, exclusive of orders of course.

45,220. The first figure is the number of orders actually drawn up in chambers?—Yes, procedure orders, 2,512.

45,221. And the orders that were passed on to you to be drawn up were over 5,000?—Of the written orders, including orders made in court which are not orders to be printed. I have not details, and am not able to state exactly which orders were made in court and which in chambers.

45,222. The 5,000 include orders made in court and chambers together?—Written orders—not printed orders.

45,223. What would be the number of printed judgments?—1,566.

45,224. So that, according to those figures, a great many more than half go to the registrar?—Yes, I should have thought so.

45,225. (*Mr. Graham Wallas.*) If the numbers made in court are about equal to those which come to the registrar the two figures might be reconciled. Those made in court do not go to the masters at all?—I am astonished to hear that the masters said that they send half to us. I should have thought they sent a great many more.

45,226. (*Chairman.*) Your figure for the orders drawn up in chambers is 2,000 odd?—2,512. That is accurate. It is a statement prepared for me by my entry clerk.

45,227. Are all those orders drawn up in chambers sent to you?—They are procedure orders.

45,228. They come to your department for record?—Yes.

45,229. Are there any orders made in chambers which do not come to your department for record?—Yes. The master endorses the summonses very often, and they put a 3s. stamp on the endorsement, and that goes for the order, but it is never entered.

45,230. Perhaps the master was counting those as orders?—I should think he must mean that, because they make a lot of those orders. That is the only way I can account for his statement.

45,231. Will you tell us of what the process of drawing up an order consists. What are the materials on which an order is drawn up?—The solicitors who have the carriage of the order are obliged to bring their brief to the registrar's seat, where his assistant clerk sits, within three days; after the order is pronounced the assistant clerk collects the part-heard notes from the other registrars. (A case might have gone on for three or four days.) Then he takes the part-heard notes and the brief to the principal clerk, and the principal clerk then prepares the order.

45,232. You are now speaking of a case which is in court?—I am talking of a court order. The order is

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then sent out for draft, and then it is put before the registrar; at least it is my practice, and I think the practice of most of the registrars, to see the draft before it goes to the solicitors. It would take about one clear day to make a copy, except in special things. The registrar then goes through the draft, puts his initials on the back of it if he sees that it is correctly drawn, corrects it where it is incorrectly drawn, and marks on the back "Appoint to settle." If it is a simple order and there is nothing on it, he will mark it for the order straight off, perhaps, but as a rule he marks it "Appoint to settle." Then the draft goes back to the assistant clerk, and the solicitors having carriage of the order come and fetch it.

45,233. Is the order ever drawn up by the solicitors?—Never.

45,234. Your practice in that respect differs from that of the King's Bench Division. In the King's Bench Division I think the orders are in the great majority of cases drawn by a solicitor?—I believe that is so.

45,235. But in the case of Chancery orders they are never drawn by the solicitor?—Never. I should never permit it. I do not say we have never received a draft prepared by a solicitor if he has wanted it in a great hurry just before the vacation or something like that, but I should never permit a solicitor to have anything to do with drawing up my orders.

45,236. The practice is that the draft is prepared by the clerk and revised and settled by the registrar?—Yes, and when the draft is seen by the registrar the solicitors come and fetch it and take an appointment before him to settle it.

45,237. That is in the case of orders where some question arises?—Yes.

45,238. In the case of simple orders they are settled without attendance by the solicitor?—Yes, I generally mark on the back whether I want to see the solicitor or not. Orders on summonses that come from chambers I do not often want to see a solicitor upon, but if there is any point that requires elucidation I then note on the back that I wish to see the solicitor.

45,239. In the case of orders resulting from proceedings before masters, what materials have you on which to draft the orders?—The summons is brought from chambers with the endorsement of the order made, and my principal clerk prepares the order from that endorsement.

45,240. In cases of some complication would there be more than a simple endorsement?—Yes, some minutes would come from chambers as well.

45,241. We have it in evidence from Master Romer that it is one of the duties of the first-class clerks to prepare minutes for the order?—They do so.

45,242. Would those minutes give you the substance of the order?—They give the substance of the order.

45,243. Would there be any great difference in form between the order and the minutes?—Sometimes the minutes are fairly well drawn, but others not, and so we have to alter them considerably.

45,244. That would depend upon the skill and experience of the clerk who drew them?—Precisely.

45,245. After the order has been drawn have you often to refer points back to the master who dealt with the case?—Yes, I have often had to go and see the master about it. Sometimes it occurs to me that the order is not drawn in proper form, or perhaps I suggest to him that the order is wrong altogether. I often have to go and see the masters or send my clerk to see them about it.

45,246. Does that give rise to delay and difficulty ever?—No; I think they are very glad for us to go and see them. I think we look upon them, to a certain extent, as we look upon the judges. We do it as a matter of course if we see any faults in the order. I nearly always go myself, though, if I am busy, I get my principal clerk to go.

45,247. You say that the registrar has to enter the briefs. What does that mean?—He enters in his court-book who the counsel are appearing on both sides and sees that all parties are represented. The first thing I have is the production of all the briefs to see that all parties are before the court.

45,248. Before an order is drawn up?—No, when I have settled the draft. As a rule I only get one brief produced to me at first. It is only the party who has the carriage of the order who produces his brief. The plaintiff as a rule has the carriage of the order, and he brings the plaintiff's brief, and when he comes to me to settle the order I require the production of briefs for all the defendants.

45,249. Then if the parties are satisfied with the order, and you have not required their attendance, the matter is at an end and the order is recorded?—I think as a rule I see the parties over court orders.

45,250. Those are the orders of greater importance?—Yes. As a rule I see them over those, but not over chamber orders unless there is something special upon them.

45,251. And if the parties are not satisfied with the orders do you then hear them?—Yes at once. They can take an appointment to settle before me. I always give strict orders for an appointment at any time to be given to settle the order when solicitors so desire.

45,252. Is there an appeal to the judge supposing that the parties are not satisfied with your decision?—Yes, but if it is a question between plaintiff and defendant as to the form of order I should probably go and see the judge myself. I do that to save time, to save trouble, and to save expense. But if it is really a very important question and there is a great difference of opinion and I think it is a matter that should go back to the court, I tell the solicitors that they must move to vary the minutes, and it comes on before the judge, generally speaking, on motion day.

45,253. Are there many points other than those that are established by the documents before you which you have to go into before settling the order?—I have to see that the evidence is all correct and everything in order, but my principal clerk goes through all the evidence and calls my attention to anything he thinks is not properly proved.

45,254. You have to verify the evidence for the statements made in court?—We look most carefully into it.

45,255. And verify, for instance, certificates of births, deaths, or marriages?—Most carefully.

45,256. On chamber orders from masters do similar questions arise as regards verification of evidence or certificates?—I always take the master's endorsement. He endorses on the summons the evidence of life or death upon which the order is made; I take his endorsement as to the evidence having been produced to him. But some of my colleagues—and I do sometimes—call for the certificate of a death or birth just to verify its correctness. If I am paying money out of court to an infant on attaining 21, I verify it by calling for the certificate of birth or baptism.

45,257. The question has been raised in several committees or commissions that have sat on the subject whether it was desirable to maintain your department and Chancery chambers as separate departments or whether it would be preferable to amalgamate them in some form?—That has been raised.

45,258. An amalgamation I think was recommended by the Committee of 1885?—Yes.

45,259. The matter was also considered by the Kekewich Committee of 1907, and that committee by a majority recommended that the offices should be kept separate?—Yes. That committee took the opinion of all the judges and former judges of the Chancery Division who sat in the Court of Appeal, and they unanimously agreed that the registrars' office ought to remain as a separate establishment.

45,260. The report of the committee does not give reasons for their decision. Can you tell me what the reasons were?—I was examined before the committee for about one and a half hours I may say and I know pretty well the feeling about it. I think the people who really knew most about our office were Mr. Justice Kekewich and Mr. Christopher James. Mr. Justice Kekewich also took the greatest interest in our office, and he was very strongly of opinion—and I dare say you have read his remarks—that the establishment ought to be separately maintained. I may say that I was not even asked a question on this subject because

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it was disposed of before I was called. Mr. Justice Kekewich said the grouping of registrars and their staff, that is the attachment of registrars and their staff to each pair of linked judges in the division was objectionable on certain grounds.

45,261. Is not that rather a different point?—It is to some extent a different point.

45,262. The attachment of particular registrars to particular judges might take place even though a separate registrars' office was not maintained. The question I was asking you to deal with was the question whether there should be an amalgamation between the two offices?—I do not know whether you could amalgamate them unless you attached a registrar to a particular set of chambers. Sir Kenneth Muir Mackenzie's recommendation (which I read this morning) is that two registrars should be attached to particular sets of chambers; otherwise I do not see how you could amalgamate them.

45,263. I think the recommendation of the Esher Committee was in favour of amalgamation?—I believe so.

45,264. Without necessarily accompanying it by attachment of particular registrars to particular judges or particular groups?—I do not see how you could carry out amalgamation without attachment to a particular group. At the present moment, as you have heard from the masters, they are in three groups—two judges to each group of four masters. If you are to amalgamate you must attach registrars to one group or other, that is if you want to amalgamate all the registrars and masters together. I do not see how, unless you attach them, you could possibly carry out that amalgamation.

45,265. (*Chairman.*) It will be impossible to finish your evidence to-day, so we must ask you to come again on some convenient day which perhaps you will arrange with our secretary?—Certainly.

ONE HUNDRED AND FOURTEENTH DAY.

Friday, 19th February 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Mr. ARTHUR BOUTWOOD.

Mr. JOHN ROBERT CLYNES, M.P.

Mr. CECIL COWARD.

Mr. RICHARD DURNING HOLT, M.P.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Mr. E. W. H. MILLAR (*Secretary*).

Sir JOHN MACDONELL, LL.D., C.B., called and examined.

45,266. (*Chairman.*) You hold the office of senior master in the King's Bench Division?—Yes.

45,267. How long have you held that office?—As senior master about three years.

45,268. How long have you held the office of master?—Since 1889.

45,269. Is succeeding to the post of senior master a matter of seniority?—The office is given in virtue of a statute to the senior master.

45,270. What different kinds of masters are there?—There are three kinds of masters—the masters of the King's Bench, the taxing masters, and the Chancery masters. With respect to the two last I have nothing to do, and I may be permitted to say nothing.

45,271. Then, will you tell us what the duties of a master of the King's Bench are?—The duties of the masters of the King's Bench are, in point of fact, to be assistant judges. Their duties are almost entirely judicial, and for the purpose of those duties legal knowledge and experience are required. In a précis which I have prepared there is an enumeration of some of the principal duties of the King's Bench masters, but it is by no means exhaustive. For example, I have not called attention clearly to the fact that the masters have jurisdiction unlimited in point of amount. I have also not drawn attention to the fact that in hearing the various summonses which come before the masters, they have the advantage of counsel—the chief junior barristers—practising before them.

45,272. It would be, I suppose, only in the more important matters that counsel appear?—In a sense that is true; but the appearance of counsel is a matter which rests very largely in the discretion of the parties. It rests in the main with them whether counsel shall appear. It rests with the master to say whether, if they do appear, a certificate for the allowance of counsel shall be granted—that is entirely in the discretion of the master. I think I have failed to notice in the list of duties certain very important duties which come almost daily before the masters. For instance, one of

the duties of the masters is to deal with arbitrations. It rests with the masters to say whether an award in all the many kinds of arbitrations shall be enforced.

45,273. Are those arbitrations ordered by the Court?—And also arbitrations agreed upon between the parties—practically all kinds of arbitrations. There is a Statute of 1889 dealing with all kinds of arbitrations; and I may say that giving effect to that Act rests almost entirely with the masters. If parties cannot agree as to the arbitrator, it rests with the masters to appoint the arbitrator; in the event of there being two arbitrators, and the two failing to agree to appoint a third arbitrator or an umpire, it rests with the masters to appoint an umpire. Another important function of the masters is to hear applications known as applications for *certiorari*; that is to say, applications to remove causes from the inferior courts—for example, the County Court—to the High Court; it rests with the masters on due evidence to determine whether or not a case shall be taken from an inferior court and brought into the High Court.

45,274. We see from the statement before us, and from what you say now, that the matters which come before masters in their judicial capacity are very varied. Can you tell us generally what determines whether a matter comes before a master or before a judge?—Perhaps I may answer that question best by describing how these duties have come to the masters. I may say that there has been a long process of devolution of duties, originally belonging to the judges, to the masters. That process of devolution began as far back as about 1830 to 1837. During the period between 1837 and 1867 certain judicial duties were placed upon the masters. In 1867 power was given to the judges to devolve upon the masters a considerable number of duties which previously the judges had performed. Since that time there has been a steady increase of the duties imposed upon the masters, so that at the present time the result is that, with certain specified exceptions, notably, criminal matters and appeals from

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[Continued.]

district registrars and one or two other exceptions, all the duties previously performed by a judge sitting in chambers now devolve upon the masters; the consequence being that the work performed by the judge in chambers has been considerably lessened.

45,275. May it be said that in the progress of an action all matters up to a certain point of procedure or of importance are dealt with by the masters, and that they act in that way as an instrument to dispose of the great majority of judicial work which is not of the very first importance, and so relieve the judges of the less important duties?—One might even put it higher than that, and say that, putting aside all criminal matters and all appeals, with rare exception all the applications made in the course of an action until the actual trial in court are made before the masters.

45,276. Besides the judicial work has the master administrative functions?—The master has administrative functions of considerable extent. He has to perform various duties which are his by statute. For example, he has to execute the office of registrar for the purpose of the Bills of Sale Act, and various statutes which have since that time amended the first Bills of Sale Act. A certain number of the masters also have to serve upon the Committee of Control, the functions of which I shall be glad to describe afterwards.

45,277. Do those administrative duties occupy any considerable part of the master's time?—I could not say that they occupy a very large portion of the majority of the masters' time. It is not so; but as regards the senior master they occupy a very large portion indeed of his time.

45,278. Has recent legislation increased the work assigned to masters?—Undoubtedly. Not merely have a large number of rules been passed which devolve more duties upon the masters, but statutes have been passed from time to time which increase those duties. For example, only a few months ago there have been imposed upon the masters certain duties of a very responsible and onerous character in virtue of what is called the Emergency Act. Under that Act it now rests with the master to say, to quote the words of this Act, "in his 'absolute discretion' whether or not a person who has obtained a judgment against his creditor shall be allowed to make use of that judgment. It rests with the masters to say whether a person who is in default in payment of his rent shall have an execution put in upon his house. It rests with the master to say whether, if there is a hiring agreement with respect to furniture, and if there are any instalments in arrears, the owner of the furniture shall take possession, and the rights of the other parties to the agreement be forfeited. Then, too, it rests with the masters to say whether or not if certain covenants in a lease are broken, and when according to the terms of the lease it would be free for the landowner to take possession, the tenant shall obtain relief from the forfeiture, and, if he is to obtain relief upon what terms the forfeiture is to be granted."

45,279. Are there numerous cases under the Emergency Act?—I do not like to use the word "enormous," but they are very many indeed, and it has very greatly increased our work in various ways. Not merely have we to hear the applications in chambers and to read the affidavits and to form an opinion upon the affidavits, but it becomes essential to cross-examine the deponent upon those affidavits. As you might surmise, affidavit evidence is often found to be exceedingly untrustworthy. From time to time it is necessary to examine the books of the debtor, and in fact, as you might expect, we regard that as the very best kind of evidence. All that takes time, and so much new work has been thrown upon the masters that I am sorry to say we get a little behind in disposing of those applications. Hitherto it has been our policy in the King's Bench Division to try and dispose of cases with great rapidity, but the Emergency Act coming on the top of other Acts has, I think, put too great a strain upon our strength.

45,280. (Mr. Holt.) Were these duties imposed upon you by the statute itself or by rules made under the statute?—Both by the statute and by rules. The statute in general terms defines the powers, and then

by certain rules those duties are imposed upon the masters. I may say that that is the usual course in recent legislation.

45,281. (Chairman.) You no longer have taxing work?—Taxing work has been withdrawn.

45,282. That was transferred to the Taxing Office?—That was transferred to the Taxing Office.

45,283. Were some of the masters who had formerly dealt with taxing work transferred to the Taxing Office when the work was transferred?—I am not quite sure that I can say that certain masters were transferred, but certain masters appointed in the manner in which King's Bench masters are appointed were put aside to tax costs.

45,284. How many masters are there now?—At the present time there are six King's Bench masters in addition to the Master of the Crown Office.

45,285. Is that in addition to, or does it include the senior master?—Six, including the senior master. At the time when Lord Coleridge's Committee reported there were 18.

45,286. There are also two assistant masters?—Yes; but these two assistant masters give practically no aid to us. One of them gives none. One of them has to take part in the work of the Court of Appeal with which we have nothing to do, and another is mainly occupied in making arrangements for the sittings of the judges, with which, of course, we have nothing to do.

45,287. Was that work performed by the masters at the time you speak of when there were 18?—That was before my time, and I am not quite sure about that. In all probability I think the duty was discharged by certain clerks under the supervision of the masters, but about that point I speak with some little caution.

45,288. What reduction in the staff of masters in the Central Office was represented by the transfer of the taxing work?—It is very difficult for me to say, but I should think it would probably be about two.

45,289. Has the master duties also in connection with proceedings by or against poor persons?—One of the masters is, under the rules, appointed the prescribed officer, and as such he has very large administrative duties. He has to endeavour to form throughout the whole kingdom a staff of solicitors and counsel who are willing to act as volunteers in examining the cases which are submitted to them, in order to determine, first, whether the particular applicant is a poor person within the meaning of the rules, and, secondly, whether or not there is a *prima facie* case for action. That involves a great deal of administrative work; but each master, on a certain day in the week varying with each master, has put before him the reports that have been made by the various solicitors and counsel who are acting under these prescribed rules, and also the documents which have been submitted to those solicitors and counsel, and upon reading these reports and documents he has to make up his mind as to whether an order shall be made giving the applicant the benefit of those rules and exempting him from the payment of fees.

45,290. And these duties are taken in rotation?—Yes.

45,291. Will you tell us what the special duties attaching to the office of senior master are?—In the first place, he has every morning, and throughout the day as occasion presents itself, to conduct a large amount of correspondence, first with solicitors in regard to particular cases, then with regard to the parties in person, plaintiffs or defendants as the case may be—and I may state that that is a steadily growing form of correspondence.

45,292. Is any correspondence of that kind conducted by the other masters, or is it all done by the senior master?—Practically all of it is done by the senior master. There might be cases in which a plaintiff or a defendant whose case had come before a particular master might write to that particular master, and, dealing with the matter of which that particular master only was cognisant, the correspondence might take place between him and that particular master, but broadly stated, it is correct to say that the correspon-

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dence of the various kinds indicated in my note has to be conducted by the senior master.

45,293. (*Mr. Coward.*) What sort of correspondence is it? To what does it relate? I was trying to remember whether I had ever received such a thing as a letter from a master?—I do not think I have had the honour of receiving a letter from you. But, first, there are letters from solicitors—country solicitors especially—asking what our practice is with regard to a particular point. When new rules come out we have in all probability letters from various country solicitors asking what we are doing in regard to such and such a thing. We have letters from time to time calling attention to certain orders that we have made—perhaps complaining.

45,294. I only wanted to say that personally I do not remember ever having received a letter from a master. I think you will bear me out?—So far as you are concerned, I think not. The correspondence, so far as the solicitors are concerned (the extent of which I do not want to make too much of), would chiefly be with country solicitors about points of practice.

45,295. (*Sir John Hewett.*) What is the nature of the correspondence with the parties to an action?—That is of a most varied character. They write to say that they are unable to attend the hearing of a particular summons and they state what their case is, often at very considerable length; they write stating that for the first time they have heard such and such an order has been made against them, and ask the master to stay the order. Many are complaints, and many are explanations.

45,296. Every item of that correspondence has to be dealt with by the senior master?—It comes before the senior master.

45,297. (*Chairman.*) I suppose replies are drafted and correspondence is dealt with by the office staff before it comes to you as a rule?—The correspondence is gone through in the morning by a clerk or clerks; the clerk comes to me before I go downstairs to sit in chambers, and I go through these letters with him. Sometimes I simply indicate what the answer should be; but some of the matters require very great consideration indeed and take a long time to answer. In referring to this subject I have not referred to perhaps the most important portion of the correspondence. I may, for example, have a letter from someone connected with the Irish Court, the procedure of which is in theory much the same as ours, and a question will be put to me as to what under particular circumstances in the High Court we do. Many letters come from the district registrars, who administer the same rules as we do, putting certain points and asking what, under certain circumstances, is our practice.

45,298. Then you also have some correspondence with public departments—the Colonial Office and the Foreign Office?—I may say that I have a considerable amount of correspondence with the Lord Chancellor's secretary. There is a steady flow of correspondence from the Foreign Office dealing with cases in which a foreign court desires to obtain evidence here, or in which evidence has been obtained by foreign courts in English suits. A large portion of that correspondence is of a routine character, but each letter has to be considered, and occasionally there may be many important questions to deal with.

45,299. Have you also special duties in connection with the internal arrangements of the business in the office?—There are 69 clerks, and they are moved from time to time from one department to another, and little difficulties from time to time arise. Fortunately things work smoothly, but all questions connected with the control of the office arising out of the business arrangements come to me, and have to be determined by me.

45,300. Have you the assistance of any special officer in dealing with those matters of internal discipline in the office, and so forth?—I am not sure I appreciate your question.

45,301. In many of the Civil departments there is an officer called a chief clerk who, under the head of the department—the permanent secretary or whoever he may be—is responsible for the details of discipline, management of duties, and leave, and so forth?—I

think I may be allowed to say that if we had such an official he would greatly relieve my duties, and would probably be an advantage, but there is no person exactly corresponding with that.

45,302. Then have you to go into all the minute details of discipline yourself?—I have to go into all these details.

45,303. (*Mr. Graham Wallas.*) Could not you create such an official by simply asking one of your clerks to do that duty?—If we had any surplus clerk we could do so, but at the present moment I do not quite see anyone who could fulfil that duty.

45,304. (*Chairman.*) You think it would be useful to have an officer specially charged with that kind of work under your direction?—I should like to consider all the consequences more carefully, but as it is presented to me the suggestion seems to me to be good.

45,305. You also hold the office of King's Remembrancer?—Yes, I hold that office as senior master.

45,306. Can you give us a general idea of the duties that fall to you as King's Remembrancer?—The duties of the King's Remembrancer's Office are of a very technical character. The King's Remembrancer has to hear all interlocutory applications in revenue suits, and in proceedings for the recovery of various kinds of taxes; he has to peruse and sign Orders of Court in revenue matters; from time to time there are questions of practice arising out of revenue suits; and he has also to supervise all matters connected with that office, in which there are three clerks.

45,307. Those duties refer generally to matters arising on Crown litigation and, in particular, revenue litigation?—That is so. Perhaps I might just say that the procedure in that office is of an entirely different character from the procedure under the Rules of Court in the King's Bench Division. The Crown in most instances is the plaintiff, and the Crown is armed with large powers not possessed by the ordinary litigant. One important difference between this and any other department is, that whereas the writs of execution in the King's Bench Division are only against property, goods, land, and chattels, the writ which issues from the King's Remembrancer's Office requires a sheriff, in the event of goods and land not being found in the sheriff's bailiwick, to seize the body of the debtor. In other words, the form of writ known as a *capias*, which originally existed in the other division, is retained in the King's Remembrancer's Department, and, it is needless to say, anything to be issued in the nature of a *capias* is of an extremely delicate character.

45,308. Are those extraordinary powers frequently exercised?—The number of executions in the course of a year are considerable. I am not prepared to give the exact number, but they exceed one or two hundred.*

45,309. I think you also edit the Judicial Statistics. Is that one of your duties as a master?—Yes, but not as a master, and I think I ought to add that so many duties are imposed upon the senior master that I have more and more to perform a certain part of my duties at home.

45,310. Will you tell us what is the statutory qualification for appointment as a master?—The statutory qualification is that the master must have been a practising barrister or solicitor of five years' standing, or five years as a special pleader. But in point of fact none of the six masters who now hold office were appointed until they had been 15 or 16 years at the Bar. I think, in the case of one who had a very large practice, he was not appointed until he had been 23 years at the Bar.

45,311. They were all barristers?—All the six are barristers.

45,312. And the assistant masters?—The assistant masters are barristers.

45,313. You, yourself, practised at the Bar?—Yes.

45,314. (*Mr. Holt.*) Does a statutory requirement apply to the assistant master?—That is a question of law. I could not say off-hand whether it is so. I should not like to decide that question. In point of fact, they are barristers.

* In 1913 they were 375.—J. M.

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45,315. (*Chairman.*) What is the usual age of appointment as a master?—In fact all those six were appointed after they had been practising at the Bar 15 or 16 years, and in one case, I think as I say, after 23 years' practice.

45,316. So that they would usually be men of 40 to 45 years of age?—Yes.

45,317. With whom does the appointment rest?—The appointment rests in rotation with the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls.

45,318. Is the appointment of the master of the Crown Office an exception to that rule?—That is an exception; that rests with the Lord Chief Justice.

45,319. In your opinion does that system work well?—It seems to me that it does. The nominating authorities have every opportunity of judging of the fitness of the barristers who are appointed masters, and also of ascertaining what the Bar may think of them.

45,320. It has been suggested to us in evidence that it might be desirable to adopt the system which the Commission has already recommended for appointments to professional offices in other parts of the Civil Service namely, that the high officer with whom the appointment actually rests should, before he makes the appointment, receive from a standing committee a report as to the qualifications of the candidates, that standing committee, speaking generally, to include some high officer connected with the department to which the appointment is to be made, and other independent authorities, including the Civil Service Commission. What would be your opinion as to the application of a system of that kind to this present case?—I speak with very great deference of such a proposal, but I doubt very much whether any such body would be competent to form really so good an opinion as the present nominating authorities, who have the very best opportunity of, in the first place, knowing what are the duties to be performed, and secondly, of knowing who are the men most likely to perform them.

45,321. Does the rotation in the appointing officer produce some degree of discontinuity in the principle applied to the selection?—Speaking from experience, I see no reason to think so.

45,322. Speaking generally, you consider that the results under the present system have been satisfactory?—I think the result on the whole has been satisfactory.

45,323. You have spoken of the process of devolution which has gone on from the judges to the masters. Has there been any corresponding process of devolution from the masters to their clerks?—To this extent, that before Lord Coleridge's Committee made its Report masters sat in court and performed work which now is performed by various clerks belonging to the Associates' Department.

45,324. And it has worked satisfactorily, to transfer that court work from masters to clerks?—I have no reason to doubt it has.

45,325. Have there been any complaints on the part of the judges?—About that I could not speak. Such complaints would not come before me.

45,326. But the complaint would be of a clerk who is subordinate to you?—That might be so.

45,327. So, if there had been a complaint, would not it have come to you?—No, the judge would probably not consult me.

45,328. To whom would the judge address his complaint? Supposing a judge found that a clerk who was doing the duty in court was not performing that duty satisfactorily, what steps would he take?—You put a case the details of which I have never had to consider. All I know is that no complaints have been made to me.

45,329. (*Mr. Coward.*) Might we ask what duties he would have to perform in court?—Upon that part of the subject I can only speak generally, because I never sit in court; but no doubt one duty he would have to do would be to prepare the certificate of the judgment, or verdict, as the case may be.

45,330. That is not a very onerous duty?—In many cases not very onerous. In some cases—speaking as I do with not much experience—it might be a difficult one. If the verdict was a clean verdict, it would be an easy task. If there were findings upon different issues it might be a somewhat difficult task.

45,331. Surely not. The questions are usually put to the jury by the judge in writing, and, if the judge is not there to receive the answers, the associate takes them?—I can only fall back upon experience. Sitting as a taxing master many years ago I had to give effect to judgments and certificates, and I found that in many cases it was an exceedingly difficult thing to give effect to them; and in some instances the judge had to be consulted, and he had to give directions explanatory of the issues.

45,332. (*Chairman.*) You are not aware of any complaint having been made of the way in which those duties have been discharged?—I have not heard of any complaints.

45,333. Could that process of devolution be carried further?—Not so far as I know, except, speaking now of my own office and also that of the masters, I do think that the time of each of the masters is, to a certain extent, wasted, because each of them has not a clerk specially attached to him. The taxing masters and the Chancery masters have such. The consequence of there not being a clerk attached to a master is that often in the middle of important business he is stopped, in order to settle some appointment or to make certain arrangements. It may be, for example, that while he is trying an action or a reference, and while a witness is being examined or cross-examined, he has to stop in order to look at his diary, and to make some arrangement with respect to certain other cases. It would be an advantage if each master had some clerk specially attached to him, who would settle a number of minor matters which are now settled by each individual master.

45,334. Who now makes the masters' appointments and draws up their lists?—The masters themselves.

45,335. Does a master draw up his own list?—In one sense he does. He will write down "chambers A to F," and then after that he will say "appointment in such and such a case," or "appointment in such and such a case." That paper will be taken downstairs, and then in the Summons and Order Department the clerks will enter all the summonses in A to F, which are returnable on that particular day.

45,336. The actual book with the list for each day is kept in the Summons and Order Department?—Yes, but the master has to keep a diary, in which particular appointments, not included in the list of summonses, are made.

45,337. Where it is a particular appointment for a particular time?—All special appointments.

45,338. And not a case forming one of the cases in the ordinary list for the day?—Quite so.

45,339. You think you could be relieved of troublesome work if a clerk were told off for that purpose?—I think so, if each master had a clerk attached to him, as is the case with the Chancery masters and the taxing masters.

45,340. That work, I presume, would not take up the whole time of the clerk?—Probably it would not. I do not think it would take up his whole time, but I am not quite sure about that.

45,341. Could what I may call auxiliary duties of that kind not be combined with the existing duties of some of the clerks?—It would be difficult for this reason, that the clerk, to be of any use, ought to be, as is the case in the Chancery Division and Taxing Office, in a room adjacent to the master's room. He must be there the whole of the day, because at all hours of the day parties will call asking for appointments or, what is often the case, asking that certain appointments which have been made shall be varied or put off. If he were engaged in another department, I am not quite sure how those duties could be properly carried out.

45,342. We heard yesterday that in Chancery chambers certain of the simpler kind of orders are made by the clerks and not by the masters. Would it be possible in the Central Office for your first class clerks to deal with certain classes of the simpler orders?—No. I do not think that could be done.

45,343. Do they at present deal with any class of cases?—No.

45,344. Do not they deal with cases where judgment is given by default?—The signing of judgment by de-

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fault is done by the clerks and the clerks only, but that requires very little exercise of judicial functions.

45,345. And those cases do not come before the masters at all?—No, the masters have as a rule nothing to do with those.

45,346. My question was this. Are there any other classes of cases which are perhaps not so entirely matters of course as a judgment by default, but on which there is very little more discretion to be exercised, which could be dealt with by clerks instead of masters?—No, I think not, for this reason. Certain orders—nine out of ten—may be very simple, but the tenth may involve a most difficult question. I am not aware of any class of orders which could be clearly marked and put aside so that there would not be a possibility from time to time of important questions arising for consideration.

45,347. Numerically, is a large part of the work coming before a master of comparatively small importance as regards the magnitude or difficulty of the points involved?—The difficulty depends very largely on the individual master; but, speaking broadly, there is a very small amount which is of a very simple character, and at any moment a case, which may appear to be simple, is found to have difficulties connected with it.

45,348. In the less important cases, what is the average time that an application occupies?—It is difficult to say. A case which seems to be simple, instead of occupying five minutes, may occupy half an hour; nobody can say beforehand what time it will take.

45,349. Is it the practice of the masters to deal with the less important cases in the morning?—If the standard of important cases are cases which are attended by solicitors and solicitors' clerks, as distinguished from those attended by counsel, undoubtedly the first are taken in the morning.

45,350. In the masters' list of cases in the morning, would there be something like 20 cases to each hour?—Yes; there would be that number.

45,351. So those would be disposed of in an average of three minutes to the case?—Not quite so, because probably of that 20 a certain number would be adjourned into the master's room at a later hour, or on some other day.

45,352. When the other day we saw Master Archibald at work, we saw him dispose of, perhaps, one dozen cases, each of which occupied not more than two or three minutes. Would not a large majority of the cases dealt with in the morning be of that sort?—No doubt; and, in the case of a master of the experience of Master Archibald, a very large number. Much depends, to speak plainly, on the experience of the master.

45,353. One master will dispose of his cases much more rapidly than another?—Yes; and the master with small experience will find that his list will take a much longer time. If a master has been sitting for some years, he comes to know the people who are before him, and they know him. They know the orders that in certain cases he is likely to make. He knows the people who appear before him, and, no doubt, business goes on more rapidly than would be the case with others.

45,354. But you do not see any means by which the less important work, which is not really deserving of the attention of an officer of the importance of the master, could be sifted out and dealt with at a lower level?—No; on the contrary. That gives me an opportunity of saying, and saying emphatically, that if our work were dealt with in some respects as I should desire to deal with it, much longer time would require to be taken. One of our forms of summonses is called a "summons for directions." It was introduced some years ago with the object—and, it seemed to me, a very good object—of ensuring that at one sitting a large number of matters should be dealt with, instead of being dealt with in separate summonses issued from time to time. Owing to various reasons that "summons for directions" has not been so satisfactory as, I think, it ought to be, largely owing to our inability to give sufficient time to the hearing of it. On the "summons for directions" we were instructed, as far as practicable, to settle all interlocutory applications; to settle the

form of pleadings; to determine whether there was to be discovery; to determine the mode of trial; and to determine the place at which the action should be tried. To carry out that idea properly, it occurs to me that a much longer time should be given to the hearing of these summonses.

45,355. (*Mr. Coward.*) Might I suggest to you that the difficulty really arises from the inability of people, at the outset of litigation, to know exactly what will be required?—That, undoubtedly, is one of the causes.

45,356. That is the real thing. It is not a question of the masters not having sufficient time, surely?—What you suggest is one of the causes, no doubt.

45,357. The principal cause?—It may be the principal cause. The one to which I refer is a very real cause.

45,358. (*Chairman.*) What is the present position as regards a limit of age for retirement in the case of masters? Is there any limit?—There is no limit. In point of fact the ages of the masters range from about 55 to 68.

45,359. There are none at present over 70?—None over 70.

45,360. And only two, I think, over 65?—Two over 65.

45,361. Do you recollect that the Coleridge Committee of 1887 recommended that retirement should be compulsory at the age of 70, with power, I think, to the Lord Chancellor to extend the tenure of office by any period not exceeding five years?—Yes.

45,362. That recommendation has not been carried out?—No; that has not been carried out. I think occasion to carry it out has never arisen. There was certainly one case where it might have been carried out, but it was not.

45,363. What is your opinion as to the desirability of carrying it out?—It seems to me that it would be unnecessary to lay down any hard-and-fast rule on the subject. In the first place, I recall one case of a master, lately dead, who performed duties after the age of 70, and in my experience there never was a more efficient master at the time when he ceased to perform his duties.

45,364. Have you ever known a case in the contrary sense, where a master became less efficient in the performance of his duties before retirement?—I may have known cases at a very early age.

45,365. Not necessarily at an advanced age?—No, not necessarily at an advanced age.

45,366. The Lord Chancellor has, I think, the power of requiring a master to retire?—Yes, the Lord Chancellor has the power of requiring masters to retire.

45,367. But that power would, I suppose, be only exercised in very extreme cases?—Of that I cannot speak. But there is another check: If a man were to become inefficient, it would mean that his colleagues had to perform a portion of his duties, and after a certain time there would be pressure, which, probably, would be effectual, brought to bear upon him.

45,368. What is the position of masters as regards pension?—That position is substantially this: They are entitled to a pension of one-sixtieth of the salary every year, and also there is a proviso under a certain statute by which they may have added to that an increment of a specified number of years, not exceeding 20, in computing the amount of pension payable to the officer. In point of fact, the increment has in recent years, at all events, been not 20 but seven. For a time, I believe, the increment was ten years.

45,369. In your own case how many years do you receive?—If I read the statute as I think a lawyer would read it, the authorities would direct their minds to each particular case; but I understand that a fixed figure of seven years has been adopted.

45,370. That was the figure in force at the time of your appointment?—No. I believe it was ten years at the date I actually received my warrant, but that is a question about which I do not speak with confidence.

45,371. Is the seven years still in force. If an appointment were made to-morrow would it apply to that?—I am not quite sure about that.

45,372. Then are you of opinion that, in the case of masters who are appointed after long professional

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experience, a liberal allowance of added years should be added for the purposes of pension?—A fair allowance of added years should be made.

45,373. Do you consider that an allowance should be fixed for masters as a class, or fixed specially in the case of each individual appointment?—I think it should be fixed in each individual case.

45,374. The determining facts being the age at which the individual is appointed?—That should be the determining factor.

45,375. (*Mr. Boutwood.*) And should it be fixed when he is appointed?—That would be the preferable arrangement. I might observe that the judges are entitled to full pension after 15 years' service.

45,376. (*Mr. Holt.*) Are they entitled to any pension before that?—If a certain medical certificate is obtained, the exact terms of which I am unable to describe, then they may get it before.

45,377. But if they retire of their own accord they do not get any pension?—I presume not.

45,378. (*Mr. Clynes.*) What is the amount of a full pension?—In the case of judges, two-thirds.

45,379. (*Chairman.*) Does the recent Superannuation Act of 1909—the Act which changed the basis from sixtieths to eightieths and gave a certain bonus on retirement—apply to masters?—No, I believe not. It might for future masters.

45,380. Were existing masters offered an option under that Act?—I am not sure.

45,381. Have you any observations to make as to the number of masters required? The question of devolution, with which we have already dealt, has some bearing on that?—I should like to make one observation, and that is, that there is a portion of our duties which seem to me to be important—the trial of certain actions and certain issues. One of our duties is to deal with executions which have been put in by sheriffs. Claimants come forward claiming the furniture or other effects which have been seized by the sheriff. An issue is then directed to determine in whom is the property in the particular goods or other effects. Certain courses may be taken; either the issue will have to be tried by a judge of the High Court, which is a costly proceeding, and the trial may not come on for some time, or the issue may be sent to the County Court, and, if it is a Metropolitan County Court, the issue will probably not be determined for a period ranging from a month to six weeks or two months. Either of those two courses which I have described may be exceedingly inconvenient; it is highly inconvenient that the bailiff should remain in possession; it is highly inconvenient that the goods should be sold if security is not found; and it is extremely advisable that there should be some expeditious mode of trying such issues.

45,382. I think that is rather a point of judicial procedure, which is outside our reference, except so far as it bears on the question of organisation?—I understood you asked me about the number of masters. The inference I was going to draw from this statement was that it was highly important that there should be an increase in the number of masters to deal with such cases. We have to refuse applications for the trial of such issues.

45,383. At present you refuse applications because the masters are not sufficient in number to deal with them?—We try a certain number of them. In certain cases it would be a positive denial of justice not to try them; but I am sorry to say that, especially of late, we have had to refuse frequent applications of that kind owing to the insufficient number of masters. For that reason alone it seems expedient that there should be some increase in the number of masters.

45,384. (*Sir John Hewett.*) What happens to those applications?—In those cases where we refuse they have to be tried by the County Court judge, which may be in a month or six weeks' time.

45,385. There is a delay in the trial?—A serious delay in the trial.

45,386. And they would prefer to go before another authority?—They would prefer to come before us, not merely because the trial is expeditious, but because it is cheaper, and—and this is an important point—if the case is tried before us we name not merely a day for

the trial, but an hour, so that the witnesses and all the parties may know the precise time at which they are to attend. If a case goes to a County Court the parties will get a return day, but the state of the business in that Court may be such that the case may not come on on that day, or, if it does come on, it may come on at a very late and uncertain hour in the day, and solicitors, counsel, and witnesses are kept waiting.

45,387. Would it be actually a convenience to the public if the masters could try these issues?—A very great convenience; that I undoubtedly can say. In some instances, the inability of the masters to give appointments amounts to something like a denial of justice.

45,388. (*Chairman.*) You mentioned that there are two assistant masters. Can you tell us the nature of their work?—I can generally, but not very much in detail, because they are concerned mainly with the court work with which I have little to do. One of the masters—Master Coleridge—sits in the Court of Appeal; Master Lawford is occupied in making arrangements with the judges as to their sittings; he also assists us in taking examinations of judgment debtors; in fact, without his assistance, it would be perfectly impossible for us to do the work.

45,389. Does Master Coleridge's work entirely consist of sitting in court?—I would not like to say entirely, but very largely.

45,390. (*Mr. Coward.*) What does he do when he is there?—I am not in court, and I cannot speak with much precision about his work.

45,391. (*Chairman.*) Is it of the same kind as the work we have already mentioned, which used to be done by masters, and is now done by clerks in the Courts of King's Bench?—You are asking me a question about which I should not like to speak, and ought not to speak, because I have not much knowledge of it. With the Court of Appeal I have nothing to do, except that from time to time I am called upon, like other masters, to make reports to the Court of Appeal; otherwise, I have nothing to do with it.

45,392. Is Master Coleridge entirely attached to the Court of Appeal?—No, not entirely; but a large proportion of his work is there. I think also he sits in the Divisional Court.

45,393. In the Central Office a considerable amount of work arises out of the work done by the masters—dealing with documents, drawing up orders, and so forth?—Yes.

45,394. Is there any corresponding relation between any part of the Central Office and the work of the assistant masters?—There would be in regard to judgments of the Court of Appeal in the case of Master Coleridge, which would come within the work of the Writ and Judgment Department.

45,395. (*Mr. Coward.*) Those judgments are almost invariably "Appeal dismissed" or "Appeal allowed" in common law. In the case of Chancery appeals it is different, because they remodel the order. In the Common Law Division they may order a new trial, for instance?—Any remark I make about the Court of Appeal must be prefaced with this observation, that I have nothing to do with the Court of Appeal except that I know what every member of the profession knows about it, but I have no special duties with regard to it.

45,396. (*Mr. Holt.*) Am I right in understanding that the assistant masters are in no real sense of the word assistants to the masters?—That is perfectly true with this one qualification, that they, particularly Master Lawford, from time to time take examinations of judgment debtors which would otherwise come to us.

45,397. Would it be practicable to have an additional number of assistant masters, who would be assistants to the masters, and relieve you of less important work?—If the assistant masters were of the same standing, or, in other words, were paid at the same rate as the masters?

45,398. No, just like the present assistant masters?—That, in my view, is another way of asking whether or not the salaries of the masters should be lowered. In my view I think it would be preferable to appoint masters.

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45,399. (*Chairman.*) Is it not rather a question of whether the work of the masters could be divided into two sections—less important and more important—and the less important section performed by assistant masters, and the more important by masters?—Some duties such as I have been indicating now, the hearing of examinations of judgment debtors, might be devolved upon assistant masters. That is quite possible.

45,400. (*Mr. Coward.*) Master Lawford arranges the work that all the judges shall do?—Quite so.

45,401. Whether on circuit or in London?—Yes.

45,402. He prepares all the circuit papers; the judges having fixed upon what circuits they will go, Master Lawford has to fix the days on which they shall hold the assizes at the different places. Is that right?—Substantially so.

45,403. Similarly he would arrange what work should be done by the judges in court—whether one is going to the Central Criminal Court, or one sit in Bankruptcy, and so on?—Substantially that is so.

45,404. And he will go into a judge's room at 3 or 4 o'clock in the afternoon and say, "Judge, will you be kind enough to sit in the Court of Appeal next Monday?"—That is the kind of thing he does?—Substantially that is correct, but anyone who knows what Master Lawford does will know that he is a very hard-working official with a great many functions to perform. In plain terms he has too much to do.

45,405. I was not in the least disparaging his work, but I was only asking what it is he does?—Your account seems to me in the main to be correct.

45,406. (*Chairman.*) What are the ordinary hours of attendance of the masters?—Much the same hours as the judges. I come, perhaps, rather earlier. They come about 10.30 and they remain until their work is finished. The nominal hour is 4 o'clock, but if a master's work is not finished, if he is trying a reference, for example, he remains until it is finished.

45,407. Is his list often cleared before 4 o'clock?—His list is occasionally cleared before 4 o'clock, but when he remains he usually has some other things to do.

45,408. And if his list occupies him up to 4 o'clock, has he other work that he has to do after his list is cleared?—Probably, if he has taken evidence in some reference, he will go through his notes. He will probably have in his room long affidavits which in chambers he has not had time to read. By way of digression, may I state that the expedition in chambers is largely owing to the fact that when a master comes upon a summons in which the affidavits or documents are very long he does not deal with them then, but he takes them to his private room and on some other occasion reads them. It would be totally impossible to conduct the work in chambers if one were to read all the documents in each case there is every day. Speaking for myself, I hold over certain documents or certain affidavits which would take a long time to read.

45,409. (*Mr. Coward.*) But you would hardly ever adjourn a case in order that you might read the affidavits; they should be explained to you, should not they?—But in many cases you are not entirely warranted in accepting the explanation of parties. They are sometimes interested in the explanations they give, and one attaches much more importance to an actual perusal of documents than to a description of them.

45,410. (*Chairman.*) Does not the opposing solicitor exercise an efficient check on the statements of the other side as to the contents of documents?—He does, but sometimes the actual documents themselves are more trustworthy than any explanation.

45,411. You mentioned that, owing partly to the additional work imposed by the Courts Emergency Act, at the present moment there is a certain amount of arrear. What does that amount to in point of time?—Arrears in this sense: We endeavour, if possible, to give short returns for summonses. A great proportion of our summonses are what are called "four-day summonses," and in normal times one may fairly expect that they will be returnable in five or six or seven days. But there came some time ago a period in which the return day was something like three weeks.* By having sup-

plemental lists we have brought down the return day considerably. I have brought to me every week a statement of the return days, and I notice by the last statement that was shown me that the return day had been brought down from an average of about three weeks to an average of about a fortnight. Still, that is not entirely satisfactory.

45,412. Are steps taken when the position is such as you have described to accelerate the rate at which work is disposed of, for instance, by increasing the length of the hours of sitting each day?—Yes, we have been sitting later, and we have been having extra lists.

45,413. What vacation do the masters have?—We have the same vacations as the judges, subject to this, that with the exception of certain days always throughout the vacations, at least one master, and sometimes two, have to be in attendance. To take, for example, the Long Vacation, one master is always in attendance, and occasionally, towards the end of the vacation, there may be two masters.

45,414. (*Mr. Coward.*) What hours do they attend?—Take my own case. I came at 10 o'clock, I sat till half-past 2 or 3 o'clock, and then I took what are called the *ex parte* applications, amounting to perhaps 20 or 30, home with me, and disposed of them in the evening.

45,415. Every day?—Every day.

45,416. Throughout the vacation?—Throughout the vacation, except Saturdays.

45,417. (*Chairman.*) Did the recent Commission on Delay in the King's Bench Division make a recommendation as regards the vacations of the masters?—I do not think there was any specific direction.

45,418. (*Mr. Coward.*) Not applying specifically to masters?—I think not.

45,419. (*Chairman.*) Was not the recommendation to the effect that the work of the masters should continue for 10 days or a fortnight after the beginning of the Long Vacation, and should begin again 10 days or a fortnight before the end of the Long Vacation?—I think that is right.

45,420. But that has not yet been carried out?—That has not yet been carried out. It would rest with the judges to give effect to that.

45,421. Would that be carried out by rules of court?—Probably, or by a direction of the Lord Chief Justice.

45,422. A direction would be sufficient without a rule of court?—We should act upon any direction.

45,423. Now will you turn to the Central Office. The Central Office discharges a considerable variety of functions?—A great variety.

45,424. Can you give a general description of them?—I have given a general description in the précis I have sent in. I have enumerated some of the chief heads—the issuing of writs and originating summonses in King's Bench, Chancery, and Probate Divisions; entering appearances; issuing summonses; drawing up various orders; and many other forms of business which are quite impossible for me to enumerate completely.

45,425. When was the Central Office formed?—In the year 1880 when the three distinct divisions—the King's Bench (or Queen's Bench, as it then was), and the Common Pleas, and Exchequer Divisions—were amalgamated.

45,426. And the office was formed by the amalgamation of a number of separate departments which had existed previously?—All the officers and clerks belonging to those three divisions were taken over, the consequence being that for a certain time, of course, the staff was considerably more than was probably necessary.

45,427. And the staff has been reduced since that amalgamation was effected?—The staff has been reduced.

45,428. Can you give a list of the various departments in which the Central Office is organised, indicating the staff attached to each department?—I have here a statement which, I think, gives the information you desire. It is a statement prepared in the form which the Committee of Control make use of, and which they find very advantageous. First, dealing with the Writ Department, there are 18 clerks; there are 12 in the Filing Department, 12 in the Associates Department,

* The extreme limit was 17 days.—J. M.

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nine in the Summonses and Orders Department, seven in the Crown Office, six in the Bills of Sale Department, three in the King's Remembrancer's Office, and two in the Masters' Secretary's Department (*handing in the list*).

45,429. Is the Associates Department the department which provides the clerks to sit in court as you have described?—That is so.

45,430. I find in the Report of the Committee of 1887 the following description of the work of the departments of the Central Office:—"The nature of the work, which was explained in detail by numerous witnesses, appears to fall approximately into one or other of the following classes: (1) Work purely clerical, depending on care, industry, and intelligence, but not requiring special or professional qualifications. For this, the main portion of the office work, a clerk's service increases in value as experience gives him a more ready and complete knowledge of the various branches of the work in his department; (2) Work of a more important character, which includes responsibility, the superintendence of other clerks, and many duties requiring initiative, judgment, and professional knowledge. It is, in short, the work of a first class professional or managing clerk." Would that be an accurate analysis of the nature of the work at the present time?—Subject to this, that it seems to me to be a slightly depreciatory description of the work. Speaking of the work of a large number of the clerks I should be inclined to think that somewhat higher qualifications were required than are indicated here; but on the whole, subject to that qualification, I think it is accurate.

45,431. As regards the first category, "Work purely clerical, depending on care, industry, and intelligence, but not requiring special or professional qualifications," what do you say?—A portion of the work is no doubt accurately described in that way.

45,432. Is that a considerable portion of it?—No doubt a considerable proportion.

45,433. Such work as the receiving and filing of affidavits would be that kind of work?—That would be particularly true of the majority of the work in the Filing Department.

45,434. Would it also be true of a certain proportion of the work in the "Writ, Appearance, and Judgment Departments"?—To a much less extent. Their work is of an important character, mistakes in which may be very serious.

45,435. But some of the work would be of a simple character?—Some of it would be, no doubt.

45,436. In your opinion what are the qualifications required for clerks entering the office?—It seems to me that what the Central Office requires in the first place is a man to be well educated—that is the main essential—that he should have a good character, and that he should be tactful. He will have in the course of his duties from the very beginning to deal with the public in regard to important matters.

45,437. The public with whom he has to deal consists, I suppose, almost entirely of solicitors' clerks?—I would not say almost entirely. Of course there are a certain number of solicitors who have very few clerks, and who have to do their work in person, and there is a not unimportant number of parties who appear in person.

45,438. Are there any considerable number of applications by parties in person?—A considerable number, and the number gives no adequate idea of the trouble which these applications may cause.

45,439. Because they are unfamiliar with the practice and require more assistance?—They are not acquainted with the practice, and they will expect advice, and, no doubt, will get it.

45,440. Do you attach any importance to a candidate having had professional experience before he enters the office?—For myself, I think that is quite a secondary matter; it is desirable, but of far more importance is that he should be a man well educated and of general intelligence, and tactful.

45,441. You attach much more importance to that than to previous professional experience?—Far more.

45,442. What is the present limit of age for appointments?—20 to 30.

45,443. How is an appointment made?—The appointment is made in rotation by the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls.

45,444. Are you consulted with regard to candidates?—In the case of the candidates who are to be appointed by the Lord Chancellor I am. For a considerable period there has been in existence a practice, according to which every applicant to the Lord Chancellor is referred to me, and I have to see the applicant and then make a confidential report to the Lord Chancellor with respect to him. That is only as regards the Lord Chancellor's list.

45,445. That system has not been adopted by the Lord Chief Justice or the Master of the Rolls?—Not, at all events, so far as I am concerned.

45,446. (*Mr. Boutwood.*) And it is a recent thing, so far as the Lord Chancellor is concerned?—I am not quite sure whether it has been in existence three or four years.

45,447. (*Mr. Graham Wallas.*) Practically since Lord Haldane's appointment?—Yes.

45,448. (*Mr. Holt.*) Do you know what system the Lord Chief Justice and the Master of the Rolls adopt?—I do not.

45,449. (*Chairman.*) They simply appoint a man?—Yes; and I have nothing to do with it.

45,450. As a matter of fact, in the case of recent appointments, have the candidates had previous professional experience?—In some cases they have been in solicitors' offices, or they have had other legal experience. What the percentage is I cannot say.

45,451. What is your view as to the present limits of age? Do you think that they should be maintained or modified?—I, personally, would prefer to see the age fixed between 20 and 25.

45,452. You would like to get them younger?—Yes.

45,453. After nomination candidates have, at present, to pass a very simple examination by the Civil Service Commissioners?—Yes; they have to pass an examination.

45,454. That examination merely tests a certain degree of elementary education?—Little more than that.

45,455. Do you think the present system entirely satisfactory?—I cannot say that I do think it entirely satisfactory.

45,456. You do not think you get the best men who could be commanded by the scale of salary offered?—I think by another system, and if the adoption of some form of competition were made use of, we should get a larger choice. I must not be understood to speak in depreciation of our present staff. In my view it is excellent, but I think that there would be an improvement if another system than the present were adopted.

45,457. Are you aware whether any steps are taken at present to publish the fact of vacancies or approaching vacancies?—So far as I know, no steps are taken, but approaching vacancies are probably known to a great many members of the legal profession, and that knowledge spreads freely and rapidly.

45,458. But if there was a competition announced by the Civil Service Commissioners that would make it known to a much wider field?—I myself should prefer to see some system of competition.

45,459. Would you suggest a system of open competition, or competition subject to some qualification?—Again, I do not feel very strongly as between those two. For my own part my preference would be for open competition.

45,460. In the case of open competition, would you suggest any further check upon the persons selected than the usual period of probation?—Two things occur to me. In the first place, I think the head of the particular department ought to have some say or voice in regard to the appointment. It might be that a certain person had passed an examination very satisfactorily, and yet it might appear to the head of the department that he would not be suitable for the particular duties which he would have to perform.

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45,461. Then you would suggest something in the nature of a veto by the head of the department as the result of personal inspection?—I do not say that it should rest with the head of a particular department to have a veto, but that there should be some quarter in which his opinion should be duly considered.

45,462. When you speak of the head of the department, you mean, in the present case, the senior master?—I am speaking of my own department, the senior master's. Furthermore, after a man has been appointed as third class clerk, I think there should be some examination in the subjects connected with his department before he becomes a second class clerk.

45,463. Is there at present any period of probation after appointment?—No.

45,464. However unsatisfactory a clerk was found to be on appointment, you have no means of cancelling his appointment when once made?—No, but I will not say that the occasion in my experience has ever arisen in which one would desire to exercise such a power if it existed.

45,465. But if such an occasion arose, the power does not exist?—So far as I know, it does not.

45,466. (*Mr. Holt.*) Do you mean to say that no clerks can be dismissed?—I do not mean to say that. There is power in the Lord Chancellor of removal, but I do not understand that to be the question put to me.

(*Chairman.*) No, the question I put referred not to a case where incompetence was so great as to justify the exercise of the power of removal, but where it was sufficient to secure his rejection at the end of a period of probation.

45,467. (*Mr. Coward.*) Such a clerk could go on continually receiving an increase of salary every year?—That is rather a theoretical impossibility. I think if it was a case such as I understood one of the commissioners put to me, namely, of actual gross incompetence or gross neglect of duty, he would be removed.

45,468. The Chairman was suggesting something a little short of that?—If it was a case in which the clerk, though not committing any grave failure of duty, was not very satisfactory, there is, so far as I know, no power of removal.

45,469. (*Mr. Graham Wallas.*) Have you any power of stopping his increment?—Not so far as I know.

45,470. (*Mr. Holt.*) In fact nothing can be done to the man unless he does something which almost amounts to committing a crime?—No, I cannot assent to that at all.

45,471. (*Chairman.*) What are your disciplinary powers in the case, say, of irregular attendance?—I must preface my answer by saying that during the time I have been senior master I have had scarcely any occasion to complain. There was one case in which I was not satisfied with the attendances, and I saw this particular clerk more than once, and the result was that a little talking to him led to an amendment.

45,472. Supposing the talking to did not lead to amendment, have you any power of punishment?—You are putting cases which have not arisen. In the first place he would not be promoted, and in the second place I should probably make a report either to the Lord Chief Justice or the Lord Chancellor.

45,473. In fact, the only disciplinary power that you have is the possibility of ultimate removal by the Lord Chancellor?—That, probably, is the theory of the matter; but, practically, the question does not arise. It seems to me from my experience that these are rather theoretical considerations.

45,474. As regards promotion, you speak of the Committee of Control. Is it one of the functions of that Committee to advise the Lord Chancellor as regards promotions?—Yes. All cases of promotion come before the Committee of Control.

45,475. Is promotion by seniority or by merit?—Both are considered. Of course, if two men are about equal in ability the senior is promoted, but merit is most distinctly recognised. I think on the very last occasion on which the Committee of Control had to consider the question of promotion, we passed over the senior man and appointed one who was his junior.

45,476. In how many cases of recent promotions has the order of strict seniority been departed from?—

There have not certainly been many. Probably about two or three during my time as senior master.

45,477. So that the usual rule is promotion by seniority, but in a limited number of instances that has been departed from?—Yes, but I ought to state that on every occasion when the matter of promotion comes before the Committee of Control the merit of each person is discussed.

45,478. I see the Committee of 1887 recommended that the advancement of each clerk should depend solely on his own merit. Can your practice at present be said to follow that recommendation?—I think so, on the whole. We discuss the merits of each person there is no doubt. I know it says, "Seniority should only be regarded when the merits are otherwise equal." In many cases it is almost impossible to distinguish between men.

45,479. You would say that the merits are so even that in practice it comes to much the same thing as seniority?—In certain cases we have, in point of fact, selected juniors. It is almost impossible to distinguish between two men who are equally doing their duty.

45,480. Is it not the case that out of a large number of men only a certain number are specially fitted for the performance of distinctly higher duties?—We find that long experience, with certain rare exceptions, enables a man to fulfil these duties. I cannot put it higher than this, that at each meeting of the Committee of Control dealing with questions of promotion, the question of merit is distinctly considered and discussed by the three masters.

45,481. Do you think that under the present system you get really the best men for your first class?—Yes, I think we do.

45,482. Ability and capacity coincide to such an extent with seniority that you do, as a fact, get the best men?—When I say that, it is not perhaps perfectly true, but on the whole that is correct.

45,483. If you had a man of really exceptional merit in the second class, a man who in intellectual power and capacity distinctly stood out above the whole class, would you select him for promotion above the others?—Undoubtedly.

45,484. But there is no such man?—I cannot say that there is. We have first class clerks who are men undoubtedly of very exceptional ability, and we have certain men of ability also in the third class, and we have some men of distinct ability in the second. Some of the first class clerks are exceptionally able.

45,485. But, as a matter of fact, no such exceptional selection, owing to outstanding capacity, has been made hitherto?—Yes, there has been one case. In the very last appointment we made we came to the conclusion that one gentleman ought to be passed over, and that another gentleman who was his junior had greater knowledge and ability.

45,486. Was not that a case where one gentleman was not promoted because he was not of special merit, rather than the selection of somebody lower down in the class because he had exceptional and special merit?—It is difficult, when you have made a selection, after considering all the circumstances and discussing it with your colleagues, to answer a question as to what were the precise motives in your mind, and how much weight you gave to this and how much weight you gave to that. All I can say is that in every case in which promotion has to be considered, merit is taken into account.

45,487. You have already mentioned that you would be in favour of an examination to qualify for promotion from the third to the second class?—It seems to me to be a good course to take.

45,488. The examination you suggest would be an examination in the work of the office?—Yes, in the work of the office.

45,489. Do you move clerks from one section of the office to another?—We do. About what the practice was before I became senior master I can speak with very little knowledge; but since I have been senior master we have freely moved clerks from one department to another, and we are endeavouring to give effect so far as practicable to a scheme according to which they shall move in a certain manner, passing from one department to another.

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45,490. So in that way a clerk will get a general knowledge of the duties of the office, and not one particular section of it only?—Yes; it is difficult to give effect to it in a short time, but our notion was that each clerk should enter the Filing Department; that in that department he should get familiarity with the various kinds of documents; that from that department he should pass, say, into the Bills of Sale Department, and from that into the Writ Department, and so on throughout the various departments.

45,491. Is it the case that at present appointments are always made to the third class, and not direct to higher classes?—Always to the third class.

45,492. Is that, in your opinion, the right system?—Undoubtedly.

45,493. Would it be desirable to make appointments direct to the other classes?—I think the present system of appointment direct to the third class is preferable.

45,494. That supplies you with good enough material for promotion to the higher classes?—It does; and even better material would be forthcoming if there were a competitive examination.

45,495. As regards the division of work between the different classes, is there a clear and distinct division between the functions of each class?—I cannot say that there is anything like a hard and fast division; but taking the Writ Department, undoubtedly very difficult questions would be settled by some of the senior clerks in the second class.

45,496. Is the number of clerks suitably adapted to the work to be performed?—On the whole I think it is.

45,497. The total number is now 69 clerks?—Sixty-nine as against 73 recommended by, I think, Lord Coleridge's Committee in 1887.

45,498. That is to say, a reduction of about 5 per cent.?—Yes; but during that time undoubtedly the work of the clerks, owing to the complication of the rules, has increased.

45,499. On the other hand, certain work—the taxing work—has been removed?—No doubt there is that difference.

45,500. And also there has been a diminution of judicial work generally?—That I do not think much affects the matter, for this reason: These figures must be read with reference to particular units, and there is not the slightest doubt that litigation is much more complicated than it was. The documents in cases are far longer than they formerly were. I appeal with confidence to Mr. Coward, whether the affidavits are not longer than they used to be.

45,501. (*Mr. Coward.*) Certainly, very much longer; but, on the other hand, it does not affect your clerks, does it?—In a way it does. In the Filing Department there would probably be an increase of affidavits.

45,502. I do not follow how that should be. Supposing my clerk comes in with an affidavit to file; it does not matter what the length of it is; it may be on one sheet of foolscap or it may be a very bulky document?—In speaking of the length of the affidavits, I had reference more to the duties of masters; but as regards the number of affidavits, they increase. Take applications under Order XIV.: more and more is there a tendency to have not merely two affidavits—the affidavit of the plaintiff and the affidavit of the defendant—but to have affidavits in reply, and sometimes more than one affidavit by each of the parties.

45,503. (*Chairman.*) I should like to put certain figures to you from the statistics with which you are familiar. Turning to the summary of proceedings in the King's Bench Division and taking the figures for the Central Office (because the work in the district registries does not affect you), I see that from 1888 to 1892 the annual average number of writs of summons was 44,347, and in 1912 it was 37,000, a reduction of about 16 per cent. Taking the same period of comparison for the proceedings in chambers: summonses issued in the former period from 1888 to 1892 were 40,234 annually, and in 1912 29,270 or a reduction of about 27 per cent.?—One explanation of that is that the adoption of the summons for directions led at once to the reduction of the number of summonses.

45,504. But is it not the number of summonses which determines the work of the office, as distinguished from the work of the masters?—No, because, take first of all the proceedings before the adoption of the summons for directions, there would be perhaps in one action five or six applications, and five or six orders, and five or six summonses.

45,505. I am taking the number of summonses which would include those five or six summonses?—I am comparing the state of things before the use of the summons for directions with the state of things after the adoption of the summons for directions. Before the summons for directions was adopted there would be five or six individual summonses swelling the number of summonses; after the summons for directions was adopted there would appear in place of the five individual summonses only one summons, thus reducing the number of summonses.

45,506. So far as the officer who issues the summons is concerned, his work would be reduced from five or six to one?—It would be, but so far as the orders are concerned there would be the same orders.

45,507. I will come to a comparison of the orders. In the former period the number of orders was 43,237 annually; in the latter period it was 32,755—a still larger reduction of 32 per cent.?—I am not saying that there has not been a reduction, but on the other hand a large number of the actions in the former years were what I may call not living actions; they were really practically undefended actions, and the number of those is diminishing.

45,508. I was merely calling attention to the figures as showing that there has been a real reduction in the volume of office work?—There are the figures.

45,509. What are the arrangements as regards leave or vacation in the case of the clerks?—The annual leave is limited to 36 working days, the period which was recommended by Lord Coleridge's Committee.

45,510. What is the arrangement in vacations? Do the greater part of the officers attend in the vacations?—The leave is, as far as possible, taken during the vacations.

45,511. But the clerks only get 36 days; they do not get the vacations besides?—Only 36 days.

45,512. We had it in evidence that in the Chancery chambers the clerks enjoy the whole of the legal vacations?—That is not so with us.

45,513. Is there any reason for that difference?—I would rather speak only of my own department.

45,514. In your own department there is work for the clerks to do during the vacation?—There is.

45,515. The current work of the office goes on, even though the Courts are not sitting?—Yes; the current work goes on.

45,516. (*Mr. Coward.*) You can issue writs, but you cannot issue ordinary summonses for time and that kind of thing. All those things are adjourned until after the vacation?—No; that is not so. There was a statement made in the Report of the Commission, which has been referred to, to that effect, but that statement is not quite correct. During vacation the masters hear all summonses, for example, under Order XIV.; they hear any application requiring urgency; and, as regards time summonses, those are not heard because times for pleadings do not run in the vacation, except as regards actions which are to be brought on at certain assizes, such as Manchester and Liverpool.

45,517. (*Mr. Holt.*) Thirty-six working days, in round figures, is half the Long Vacation?—That is about it.

45,518. (*Chairman.*) Are the hours of attendance varied in the Long Vacation?—The hours are to some extent varied.

45,519. (*Mr. Coward.*) The offices close at 2 o'clock every day, do they not?—Yes.

45,520. You cannot issue a writ after 2 o'clock?—On page 11 of my précis I give the hours of attendance, both on ordinary days and in vacation.

45,521. (*Chairman.*) On ordinary days the hours are 10 to 4, and in vacations 10.30 to 2.30, or, in the case of certain departments, 10.30 to 1.30?—Yes.

45,522. So in vacation the clerks who are not on leave have a very easy time?—I would not say that,

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but those are the hours which are kept. 10.30 to 1.30 are easy hours for a day's work.

45,523. (*Mr. Graham Wallas.*) Do they come on Saturdays in vacation?—Yes.

45,524. (*Chairman.*) Can you suggest any arrangements by which the work could be more evenly distributed, so as to employ the staff adequately in the vacation?—That is a very difficult question. The work of the offices depends largely upon the work of the judges; and, if the judges are not sitting, of course, to some extent the work in the offices diminishes during the vacation.

45,525. If the recommendation of the Royal Commission on Delay in the King's Bench, as regards the master's vacation, were carried out, that would diminish the period during which the office is working at reduced power?—No doubt it would to some extent. At the same time one finds that when cases are taken during the vacation there is extreme difficulty in getting the attendance of witnesses, and there is extreme difficulty in getting the attendance of counsel and even of solicitors.

45,526. (*Mr. Holt.*) What happens to those clerks at Christmas, Whitsuntide, and Easter, when the Courts are not sitting. Is that part of their vacation too?—I cannot give quite an off-hand answer whether there are special arrangements made with regard to that. I will ascertain that.*

45,527. (*Mr. Coward.*) At any rate, there are no judges there, and the number of masters is very limited in the short vacations; that is to say, there would be only one master?—No, for a certain period there would be two masters.

45,528. (*Chairman.*) You gave us your opinion as regards an age limit for retirement in the case of masters. Will you give us your opinion upon that subject in the case of clerks?—I should be sorry to see a hard and fast line drawn, having in view certain of the men who are among the first class clerks. I should be exceedingly sorry, speaking of one or two of them, if they were compulsorily retired at 70.

45,529. The recommendation of the Coleridge Committee as regards clerks was that every junior clerk should retire at 60 and every first class clerk at 65, with power to extend their service by five years in special cases. What would be your opinion of a system of that kind?—I should like to see even a longer period of extension. Some of the men who are amongst the older clerks in the first class are men of the highest efficiency at the present moment.

45,530. That would give power in special cases to extend their service to 70 years?—I should like to see that done.

45,531. Would you like the power of retaining them even beyond 70 years? At the present moment are there any clerks whose age is greater than 70?—There is only one such clerk, and he is in the Crown Office. He is a first class clerk.

45,532. You are of opinion that there are certain cases in which retention is indispensable in the public interest?—In the public interest. There are certain men among the first class clerks who are over 65 and are approaching 70, whose retention, it seems to me, in the public interest would be desirable.

45,533. At present clerks are not in any case eligible for appointment to masterships?—That is so.

45,534. In your opinion, is it desirable to keep up that absolute bar, or would you think it advisable to make clerks in exceptional cases eligible for appointment as masters?—I should be the last to speak lightly or disparagingly of the head clerks. Far from it; I have the highest opinion of their ability and their zeal, but the nature of their duties is not such as would prepare them for the duties of masters; they are important duties, but of a different character.

45,535. You think that experience at the Bar is more valuable for masters?—Far more valuable.

45,536. So in principle you would maintain that rigid barrier?—I would maintain that distinction.

45,537. (*Mr. Holt.*) You are senior master and King's Remembrancer by reason of an Act of Parliament that attaches that office to the person who has been master for the longest period of time?—That is so.

45,538. I understand from you that the duties of senior master are distinctly more responsible than those of the other masters?—I would not say more responsible, but they are larger.

45,539. They are larger and more important. If that be so, would it not be in the public interest that, when the office of senior master falls vacant, it should be given to the most competent?—I have no objection to such a plan.

45,540. Do you see any reason why, instead of it being the absolute right of the man with the longest service, it should not be given, say, by the Lord Chancellor, or some other person to the master who is thought to be most capable?—I see no objection to such a course.

45,541. Does the master of the Crown Office who makes, I think, a sixth master, do the same sort of work as the other masters?—No, the duties of the master of the Crown Office are of a different character. For instance, he acts as registrar for the Court of Criminal Appeal, an entirely distinct department.

45,542. Supposing he was unfortunately ill and unable to attend to his duties, would one of the other masters do his duties for him?—There is an assistant registrar connected purely with the Criminal Appeal Court. We have no duties in that court.

45,543. Are all his duties in the Criminal Appeal Court?—Master Kershaw has some other duties connected with the Crown Office.

45,544. But supposing he was unwell and unable to attend to his duties, so ill as to be laid up for six weeks during the sittings of the Court, would one of the other masters take those duties?—As regards the Court of Criminal Appeal we would have no jurisdiction.

45,545. Would the result of Master Kershaw being ill be that the Court of Criminal Appeal would have to stop its work?—You are asking me about a department I have absolutely no knowledge of.

45,546. Is this master to be treated as a person who is entirely separate from your duties?—So far as the Court of Criminal Appeal is concerned he has entirely different duties.

45,547. Supposing one of the other masters was unwell and unable to attend to his duties, would Master Kershaw assist in the extra work or not?—We have never called upon him to do so. If the Court of Criminal Appeal was sitting at the time, and it sits frequently, we could not call upon him.

45,548. In this return which has been given to us Master Kershaw is put down as being, so to speak, one of your department, but you apparently rather repudiate that?—I would not say that. The Crown Office, after all, belongs to the Central Office, but so far as he is a master of the Court of Criminal Appeal he is entirely distinct. He has criminal jurisdiction; we have absolutely none.

45,549. Apparently he was appointed to his present position in January 1912, but he had been in the public service since May 1908. What had been his previous position?—I could not answer that. Probably he will be able to tell you better than I can.

45,550. I notice that he is apparently the only master who was in the public service before obtaining his present appointment?—I have no personal knowledge about that, but I could obtain the information.

45,551. Can a master be removed by the Lord Chancellor?—Undoubtedly.

45,552. Are the decisions of a master invariably subject to appeal?—I would not say invariably. There are a few cases in which there would be no appeal, but as regards the great majority of his decisions they are subject to appeal.

45,553. You told us that the duties put upon you by the Emergency Powers Act were put upon you by some Rules of Court?—By statute and rules.

45,554. But I do not remember any words in the statute referring to masters?—No, but certain duties

* The offices of the Central Office are open every day of the year with the exception of the days specified in Order 63, rule 6, of the Rules of the Supreme Court.—J. M.

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were specified, and then rules were made under the Act, and these duties were put upon us.

45,555. Would it have been possible for the persons who drew up the rules to assign those duties to persons other than the masters. Could they have assigned them to the clerks if they had thought fit to do so?—No, I think not. There are certain words in the statute, if I remember rightly, which would have prevented that. Such rules would be *ultra vires*.

45,556. (*Chairman*.) You mean that the functions would have to be exercised by an officer who has the powers and authority of a judge?—Yes. I forget the words in the statute, but it is “by a court or judge,” or some such words.

45,557. (*Mr. Holt*.) With regard to your duties as King’s Remembrancer, what is “the receiving and acknowledgment of deeds by married women”?—There are very few certificates of those now filed. They have to be entered in the King’s Remembrancer’s Department.

45,558. Why do deeds by a married woman have to be treated differently from deeds by other people?—I cannot answer that question.

45,559. Is it some sort of old technicality?—Yes.

45,560. You told us that the senior master must be necessarily a barrister. The statute permits him to be a solicitor. Do you know of a case in which a solicitor has been appointed?—Among the six masters at the present time, including myself, there is no solicitor, formerly there was a case or cases of such appointment; for instance, Master Johnson was a solicitor.

45,561. (*Mr. Coward*.) A very able master?—A very able master.

45,562. (*Mr. Holt*.) Your own opinion is that there is no reason why solicitors should not at times be appointed to the position?—I think the training and experience at the Bar is the better training and experience, but I would not for one moment say that there might not be excellent appointments made from solicitors.

45,563. You are probably aware that a Chancery master must be a solicitor, and may not be a barrister? That is so.

45,564. Perhaps you will not be surprised to hear that the Chancery masters think that solicitors alone are competent for such positions, and barristers are not competent. Are you able to suggest that there is such a difference between the duties of a Chancery master and the duties of a master in the King’s Bench as to make a barrister the most suitable man in the one case and the less suitable man in the other case?—I do not want to put it too high, because I must not be understood as saying that there are not solicitors who would not perform the duty admirably, but I do think that on the whole the training at the Bar is preferable. The master has to deal with applications with regard to pleadings, for example—a large portion of his duties relates to pleadings, statements of claims and defences and replies, and so on. A practising junior barrister has spent a considerable portion of his life in dealing with such questions. A solicitor has probably been occupied otherwise, and possibly more profitably than in dealing with those matters. That is one difference.

45,565. Are you aware of any facts which would make the same train of reasoning inapplicable to the case of the Chancery Division?—Yes, I think so. In the first place, they have no original jurisdiction; they act only in the name of the judge, and if there is any difficulty which arises, there is not an appeal but the matter is referred to a judge; whereas the King’s Bench masters have original jurisdiction and determine the matter before them, and if the parties are dissatisfied there is an appeal to the judge, and that is not so in Chancery.

45,566. You do not think there are any classes of work which the master performs which might be devolved upon his clerks if there was a right of appeal to the master?—At the present time I cannot think of any that could be profitably devolved.

45,567. Would your clerks have the ability to perform the duties of the taxing masters?—I am no longer dealing with taxing, but drawing upon my experience as a taxing master, they might perform certain sub-

sidary parts of the work, but I should think, in the main, the work ought to be done by taxing masters—solicitors of wide experience.

45,568. Taxing masters then are solicitors, and not barristers?—Yes, solicitors.

45,569. You said there was no promotion for masters. Have masters ever been made judges?—I believe there is an instance of a master in Chancery (who is an extinct functionary) being appointed a judge. I think Vice-Chancellor Kindersley was a master in Chancery; but there has been no instance of a King’s Bench master having been promoted.

45,570. Then, theoretically, a master might be appointed a judge of the High Court?—Theoretically.

45,571. You state that in the King’s Remembrancer’s Department you have to “attend to correspondence with under-sheriffs and Privy Council Office as to persons eligible for the office of high sheriff”?—Yes, but that is a very small matter.

45,572. That is, again, except with regard to Lancaster and Cornwall?—Yes. Then there are a great many ceremonial duties connected with the office which I have not mentioned at all.

45,573. I suppose you have a position at the Coronation?—For instance, one has to attend to the Trial of the Pyx, swearing the jury of Goldsmiths empanelled in order to determine whether the sovereign contains its due proportions, and then to receive the verdict. There are a number of ceremonial functions which I have not mentioned.

45,574. Are you at all conversant with the organisation of the other departments of the Government, such as the Local Government Board?—No, I cannot say I am.

45,575. You would not be able to say whether the class of clerk that is employed in those departments would be satisfactory to your department?—I have been brought into contact with clerks in the Home Office and in the Board of Trade. When I was at the Bar I was one of the counsel for the Board of Trade, and had some experience of Government departments.

45,576. Supposing you were supplied with clerks recruited by the same method and in the same circumstances as the clerks who go into other Government departments, would that be satisfactory to you, as far as you know?—I should not like to answer that question unless it was put in a more precise form, if I may venture to say so.

45,577. (*Mr. Holt*.) I think I am right in saying that the head of a Government department, such as the Local Government Board or the Post Office, does not have any opportunity of vetoing any particular clerk who is sent to him by the Civil Service Commissioners. (*Chairman*.) He has no opportunity of vetoing, but there is a period of probation. (*Mr. Holt*.) Supposing, as regards your clerks, you were put in the position that you had no veto, but there was a period of probation, during which you could reject a man if he appeared to be unsuitable, would that be satisfactory?—That would be satisfactory.

45,578. (*Mr. Boutwood*.) You speak of “associates.” What are they, and what do they do?—The associates were originally officers of the court connected with the three courts—King’s Bench, Common Pleas, and Exchequer. After these courts were amalgamated the officers became masters, and then there came a change in which the associate, properly speaking, ceased to exist, and there only remained clerks whose work was formerly done by associates. That is to say, they attend in court, they chronicle the results of the trials, and they do certain work in the way of entering cases and so on connected with the actual trials.

45,579. So there is an Associates Department now, but no “associates”?—The “associate,” in the old sense, is a thing of the past.

45,580. How does promotion run in the Central Office? Is it fairly frequent, or is there anything approaching to stagnation?—It varies from time to time. I have here a statement which, if necessary, I could put in, which shows the length of service of each clerk in the various grades; showing, for instance, that one man had been 8½ years in the third class,

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another had been 12 years, and so on. All that information is to be found with reference to each clerk in this statement. If an average were arrived at, it would not be very useful, because the materials over which the average is formed are so varied.

45,581. It was suggested to us yesterday that the initial scale of salary for the third class was not quite adequate, that 100*l.* to 200*l.* was not sufficient to attract the best men, and 150*l.* to 250*l.* was suggested. Is there anything in your experience which would lead you to speak for or against that?—I have heard many complaints from clerks that owing to the effect of the rise in prices the result was that, practically, their salaries had been reduced; and it seemed to me there was some force in that, and probably the result will be, in the long run, not to attract quite so good a class of men.

45,582. Upon your side have the masters any dealings with property? When the Chancery system was being explained to us yesterday, apparently it was thought that a solicitor was a more suitable man for a Chancery mastership, because he had considerable dealings with property?—There come before us actions of almost all kinds, and in the course of these actions questions arise with regard to property. If by “property” is meant that we have nothing to do or very little to do with conveyances or rectification of contracts, that is perfectly true.

45,583. Or administration?—That is so.

45,584. (*Mr. Coward.*) Dealings under the Settled Land Act and that kind of thing do not come your way?—We have nothing to do with that. There are specially assigned under rules to the Chancery Division large groups of questions which have direct reference to “property,” using that word in a general sense.

45,585. (*Mr. Graham Wallas.*) When it is the Lord Chancellor’s turn to appoint in the Central Office he refers the proposed appointment to you?—It is not quite that. When an applicant applies to be put on the list of candidates, he refers the applicant to me, and I see this applicant, have some talk with him, and make a confidential report; but it rests then with the Lord Chancellor whether he shall be put upon the waiting list of candidates.

45,586. A man is not put on the waiting list until after report by you, but after that you hear nothing more about him until you hear he has been appointed?—Precisely.

45,587. (*Chairman.*) Can you tell us whether candidates, as a rule, apply for a particular office—for the Central Office for instance—or whether they apply for a post in the offices of the court generally?—I have known cases in which the applicant has told me that he has applied not merely for a post in the Central Office, but for a post in other legal departments—whether that is general or not I cannot say.

45,588. (*Mr. Graham Wallas.*) All clerks are now appointed to the third class?—Yes.

45,589. And you think it is necessary that they should be well educated, if they are to do their future work?—Yes.

45,590. The examination for a third class clerk is in handwriting, spelling, arithmetic up to fractions, copying manuscript, English composition, indexing, digesting returns into summaries. As a test of good education that is something worse than ridiculous?—It is very inadequate.

45,591. The clerks in your office go from clerks at 100*l.* a year doing very subordinate work—the lowest work there is—up to clerks receiving normally 600*l.* a year, five of whom get more than 600*l.* a year. In other departments is it not the case that such a great range both of work and salary would be dealt with by having two grades of appointment, one to the lower work, and the other, presumably of better men, to the higher work?—I cannot say what is done in other departments of the Government service, but I think that this system, on the whole, works well. It is advantageous for a man to have passed through all the departments. The work is of an extremely technical character—perhaps it is unfortunate that it is so, but there it is.

45,592. But if you can appoint men originally—a certain few men—at 200*l.* a year, with the understanding that they shall learn their trade in the lower offices, but be trained for the higher work, and that they should go rather more rapidly up to the well-paid posts, would not you get better men in fact than those you get at 100*l.* a year, who will spend perhaps ten to fourteen years on very routine work?—I am not prepared to say that you would not, but I think a preferable system would be to insist upon a competitive examination before entrance into the third class.

45,593. But the competitive examination candidates would only represent those people who were content to spend about 14 years, as things are now, in the third class?—Then, as I put to the Chairman in answer to his question, I would suggest that there should be an examination of those in the third class, the effect of which would probably be to winnow out the best men.

45,594. But unless you have a good man originally you do not make anyone into a good man by submitting him to an examination?—No; but if you tell the men who enter the third class that there is the prospect of advancement to a higher grade with salaries such as you have mentioned, then I think you would get a very good class.

45,595. You said you did not approve the suggestion of an age limit for the clerks?—Not as regards retirement.

45,596. Are the grounds of your objection to an age limit generally applicable to the whole Civil Service, or are they confined to this particular office?—I have not the knowledge which would enable me to form an opinion as to the general Civil Service. I confine my observations solely to my department, founded upon individual cases present to my mind.

45,597. At present the senior master has by statute the right to be senior master with all the duties?—Quite so.

45,598. I think you told us that in your judgment there would be no objection to substituting for that an arrangement that it should be a definite appointment?—In answer to a question put by one of the Commissioners, I stated that I saw no objection to altering the terms of appointment, so that it should rest with the Lord Chancellor or some other authority, or authorities, to nominate any other master.

45,599. Would you agree that it is rather a peculiarity of the legal departments that matters of office arrangement and promotion are so often made statutory?—I cannot recall to my mind enough instances in order to feel that I am justified in saying “very often,” because I have not present to my mind other instances.

45,600. Take the fact that the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls have by statute the right to nominate to your office in rotation; that is a matter of office arrangement which in no other department of the Government would be made statutory?—I take it from you that that is so.

45,601. You have told us that that arrangement of appointment by rotation in the case of the masters is, in your judgment, unobjectionable, because your words were: “Every opportunity existed for judging the fitness of the barristers concerned”?—Quite so.

45,602. I am going to put certain questions to you now arising out of that answer. Is it the case that Master — is the son of a judge?—He is the son of a judge, and let me add he is a most able and efficient master.

45,603. And Master — is the cousin of a judge?—I do not know the exact terms of relationship, but may I add also that among the whole legal profession there will be only one opinion about his remarkable efficiency.

45,604. Master — is the son of a judge?—He is the son of a judge and a very competent master.

45,605. Master — is the cousin of a Lord Chief Justice’s wife?—That I do not know.

45,606. Master — is the son of a judge?—Yes.

45,607. Master — is the son of a Lord Chief Justice?—That is so.

45,608. Master — is the brother-in-law of a Lord Chief Justice?—I believe that is so. May I add that I have not the honour to be related directly or indirectly to any judge.

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45,609. Does that suggest to you that some of those opportunities of judging the fitness of the persons concerned are gained in the intimacy of family life?—It is a question that I could scarcely answer. There are the facts.

45,610. Would you say that the whole conception of appointment by rotation must originally have been based upon the idea that patronage was a personal privilege and not a burdensome duty?—Are you asking me an historical question?

45,611. Yes.—It is a difficult question to answer. It is difficult to know what was in the minds of those who originated that system.

45,612. A good deal of the work in your department is done in the Scrivenery Department?—That is a separate department over which one master, Master Archibald, has control.

45,613. Are you familiar with the scrivenery arrangement?—Not minutely. In a general way I know, but I have no direct concern with that.

45,614. In your department do you yourself personally make any use of shorthand. Do you dictate anything to a shorthand writer?—Occasionally, yes.

45,615. How do you obtain the shorthand writer?—One of the clerks, Mr. Philip Clark, writes shorthand, and in dictating letters I give him the heads which he takes down in shorthand.

45,616. It happens to be the case that one of your third class clerks writes shorthand?—I believe there are more, but you asked the question as to myself, and my answer is solely with respect to myself. I dictate the heads of letters to him.

45,617. Is there any systematic arrangement made to secure that there shall be a sufficient knowledge of shorthand in the Central Office?—No, I do not think there is. I do not know that it is much required.

45,618. Is there a certain amount of typewriting done?—A certain amount.

45,619. Do you think sufficient use is made of the typewriter?—I think that use might be extended.

45,620. Is there any systematic arrangement, as in other offices, for providing for the typewriting work?—There is a certain amount, but I think that might be extended.

45,621. You know that the whole method of office routine and mechanical arrangement has been revolutionised by such arrangements as vertical filing, loose leaf ledgers, and so on, in business houses?—Yes.

45,622. Has there been any systematic attempt to inquire whether those inventions might be adopted in the Central Office?—There have been some inquiries, I cannot say systematic inquiries; but the work of the Filing Department has been from time to time examined.

45,623. Do you think that further improvements might result from further inquiry?—It is quite conceivable that that would be so.

45,624. But it is nobody's special business to make that inquiry?—You may take it generally that everything connected with details of improvements of that kind would in the long run have to come to me, and again I should like to add, though it is not quite an answer to your question, that there are far too many points of detail thrown upon the senior master.

45,625. If there was an appointment of the nature of chief clerk, as the Chairman indicated, that could be part of his duty?—That would not quite meet all that I want. I should suggest more than that. I should like to see, as I think I have stated already in answer to the Chairman, a special clerk attached to each master, and no doubt if that were the case many such details could be looked into.

45,626. But those details are general to the office, and it would be a great disadvantage to the office if each master adopted different methods?—Of course, one of the points which would be discussed by the Committee of Control would be concerted action with regard to those things.

45,627. (Mr. Coward.) First of all, about the qualification for mastership. You rather seemed to favour the elevation to mastership of members of the Bar. There may be a question about that, may there not. I speak quite independently, because I was at the Bar

myself; but it seems to me that you may have a better man from the solicitors' branch than from the Bar. The qualification is five years' practice?—The nominal qualification.

45,628. So that you may get a man who has been at the Bar for five years, or ten years, if you like. If he has been at the Bar ten years and he has been at all successful, and his abilities prove him to be so, he would perhaps hesitate to take a mastership. If he were going to be very successful he would hesitate because the prizes are so great. Again, if he were not successful he might have really very little experience at all. Whereas a man from the solicitors' branch would be bound to have had a very considerable amount of experience, and far more practice as a rule, than a man who is doing nothing at the Bar, because he is sure to be a clerk or in practice in some way or other, so as to get more experience than the man who is not successful at the Bar would get. Is not that right?—You must clearly understand that I do not for a moment suggest that certain solicitors would not make excellent masters. I further would remark that, so far as I know, there have been no cases in which a master has been appointed, as you suggested, when he had been five or ten years at the Bar—at all events, within my knowledge. I put my opinion no higher than this, that I think, on the whole, the training of a barrister, who has had actual practice, would be a preferable training to the ordinary experience of a solicitor.

45,629. A man at the Bar, who is making 1,500*l.* a year, say, after six or seven years, would know very well that he had a chance of getting near the top of the tree?—Yes; but there are cases in which a man who is in very considerable practice, and earning far more than that, is offered a mastership; perhaps his health may be doubtful, and he looks forward to a pension, and that—I can speak from actual experience—has been the determining factor in certain cases.

45,630. I quite readily appreciate that, especially when you bear in mind that the man at the Bar who is in successful practice has a very, very onerous and laborious life, because he would be in court all day and have to read his briefs at night—that is his lot; whereas, if he becomes a master, he will go down to the office at 11 o'clock in the morning?—No, not at 11 o'clock, if you are taking an actual case.

45,631. What time do you say?—Take my own case. I come at various times, from 10 to half-past 10.

45,632. And then there is a luncheon interval. You would not find a master there after four as a rule, would you?—Probably the majority would have left.

45,633. Therefore, it is a very pleasant life in that sense. It is very different to the life a man would have at the Bar, and a very different life to the life a man would have in a solicitor's office doing any work?—That is not quite my description of it. I speak with some experience of work in other professions, and I take leave to say there is no work harder than that which a master has in disposing of a list of summonses, including many counsel summonses, ranging in number from 60 to 70. On certain days, at certain times, we try actions, and my experience is that, in disposing of a long list of summonses in which you have to master, so far as you can, one group of facts, pass rapidly from it and master another group of facts, one hour at chambers is equivalent to two hours trying actions in which you have the assistance of counsel.

45,634. That I can appreciate. Now, dealing with the masters, what I was upon was that solicitors, if good men and experienced, ought to be singularly capable of undertaking the duties of master?—Perhaps I am repeating myself, but again I would not desire in any way to convey the impression that certain solicitors would not be excellent masters. I put it no higher than that I think, on the whole, the experience at the Bar is preferable.

45,635. That is your view. We have heard a good deal about the changes that have occurred of recent years in the character of the work of the masters, but there is one thing that occurs to me in which the work of the Common Law masters differs from that of the Chancery masters. We heard from Master Romer yesterday his description of what the Chancery masters

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do. I gather, if my knowledge is anything, that the masters in the Common Law division hear and determine all their cases, and their clerks do not interfere at all, and have nothing to do with them. That is right, is it not?—Yes.

45,636. The master sits in his room by himself, hears these summonses and reads the affidavits, and comes to his conclusion upon the case, and he gives his decision, and there is an end of that. His clerks have nothing to do with it; they do not read his affidavits for him, and do not have anything to do with him. Is that right?—Yes.

45,637. Of course, the work has changed to a considerable extent. The taxing work you used to perform was substantial?—Yes, it was substantial.

45,638. That you have been relieved from. You no longer sit in court, but the masters used to sit in court?—Yes.

45,639. I do not think I ever remember to have seen you sit in court?—No; it was before my time.

45,640. But I remember Master Campbell and Master Earle used to sit in court?—Yes.

45,641. And never did anything else?—I will not say that.

45,642. It was found quite unnecessary that they should sit there?—So Lord Coleridge's Committee found.

45,643. And the courts have done without them, and nobody has ever suggested that anybody has suffered from it?—I have heard no complaint.

45,644. The registrars do sit in the Courts of Chancery, and are masters in that sense. It may be that they are necessary there; but certainly they are not necessary on the Common Law side?—That I cannot speak about.

45,645. On this question of the vacation, I myself am a great advocate for vacations, because I think the man who works ought to have a little rest; but, still, the court vacations are a very serious matter. I should think the vacations absorb over one-third of the year, and if you calculate you will find that there are very few over 200 days in the year, apart from vacations, which are the working days of the year for the masters?—The Calendar will show the exact number of days.

45,646. (*Chairman.*) 212 is, I think, the number?—Somewhere about that.

45,647. (*Mr. Coward.*) Excepting the judges and the masters and their clerks, there are altogether nearly 500 clerks in all the offices—the Central Office, Chancery Division, Taxing Office, Admiralty, and Bankruptcy—over 400—and if you are going to occupy the time of those people for only 212 days out of the total of the year, it shows that there must be, I should have thought, a very great lack of work for them at particular parts of the year, that is to say when they are not at work?—Of course, that all turns on the question of whether there should be a Long Vacation, and also whether there should be the other vacations. That is a question upon which each one of us may have our own opinion. The vacations may not be defensible, but assuming the vacations are to exist, it follows that a certain amount of the work at chambers must diminish.

45,648. I suggest to you that, practically speaking, there is no work during the vacations. There is only one judge in attendance once a week?—Yes, one judge.

45,649. And most of the things he deals with at his own house, in cases of emergency?—I am not acquainted with how he deals with them. It is a question to be put to him rather than to me.

45,650. There is one master in attendance?—Always one master in attendance.

45,651. And then there are this number of clerks, so what those do it is difficult to conceive?—Before the Commission, of which you were a member, I gave evidence as to the exact quantity of work which was done during the Long Vacation. I gave the exact figures as to the writs issued, as to the summonses issued, as to the judgments that were signed, and as to the executions that were issued. I cannot charge my memory with the exact figures now, but in my evidence will be found those figures, and if I remember rightly the purport of those figures, it was not as you stated. A very considerable amount of work is done.

45,652. You spoke just now of the issuing of writs. It is not even the kind of work that a clerk at a railway station does—that of issuing tickets?—I do not for a moment agree with you in regard to that issuing of writs.

45,653. My clerk will come up with a writ prepared; he hands it into the clerk at the office, who seals it. Is not that it?—Yes, but in a great many instances, as you doubtless know, the indorsement on the writ which is presented would be of a varied character. It might not comply with certain rules; for instance, if it is an indorsement in an action for libel it might have failed to specify the particular date of the publication of the libel. If it was a liquidated claim it might have failed to comply with the requirements under Order 3, Rule 6.

45,654. Would it be the clerk's duty to call my clerk's attention to that omission if he chose to go in and issue a wrong writ. It would not be his duty but my duty; and, as you pointed out, I should be liable for an action for negligence if I did it improperly?—I do not say your clerk, but many clerks are not experienced, and certainly in the case of litigants in person, the clerk in the office undoubtedly would call attention to irregularities.

45,655. But it is not part of his duty to do it in any other sense than this, that he would look to see that the thing was right?—In that sense, but I disclaim entirely the comparison which you were good enough to make between the issue of a railway ticket and the issue of a writ. It seems to me quite an inaccurate description, if I may say so.

45,656. With regard to the recruiting of the first class clerks; these gentlemen who are first class clerks get very substantial salaries. Their salaries are 500*l.* to 800*l.* a year?—One gets 800*l.* a year, but that is a personal arrangement.

45,657. There are two marked in my list at 800*l.*, one at 700*l.*, one at 640*l.*, and so they go down. Is not that a very high salary for what they have to do? Perhaps you would hardly consider that you are a judge of what salaries should be given?—I do not pretend to be.

45,658. But it is a substantial salary?—Obviously it is substantial.

45,659. Do you not consider that it would be very expedient to have competition for the position of first class clerk; that is to say, would not you think that some of the managing clerks in solicitors' offices would make most excellent first class clerks?—Some of them undoubtedly would.

45,660. Will you look at this list of names. I expect you know most of them [*showing list to witness*]?—Some of them I recognise at once.

45,661. Do you think that if you had an opportunity of recruiting from such people as those it might be very advantageous?—Some of them, no doubt, would make excellent clerks, and no one could be better than some of them; but, I think, if you were to introduce these gentlemen from the outside, it would have a discouraging effect upon the men in the third and second class, and an inferior class of men would probably come in.

45,662. I would point out that in recruiting for my own office for the posts that may be vacant, it would very often happen that I should have to get someone from the outside. I should not necessarily raise somebody because he had been in my office; it would be ridiculous, would it not? What I want is the best man that can be got; and certainly, if I have a wider area of selection, I should be likely to have the better man. Is not that right?—You might get a certain number of good men, but it might have a generally depressing effect upon the service. Further, some of these gentlemen, whose names you have put before me, are no doubt excellent men, but would they all submit to an examination?

45,663. Perhaps it would not be necessary. They have taken their examination in the career of life?—That allows me to make this further observation. They would either have to submit to an examination or not. If they did not submit to an examination there would be no security that the outsiders would always be the

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most competent persons. It is possible that others of a different character might be introduced.

45,664. It might be, but at present for the highest posts you select them from outside; for the next high posts they go up by gradation, and, as a matter of fact, it is by seniority?—Yes.

45,665. Each judge, upon his appointment, nominates his own clerk?—Yes.

45,666. That clerk has no public duties whatever to perform. All he does is, as I think we heard from Sir Kenneth Muir Mackenzie, that if a judge's decision on a trial is appealed against, the clerk makes a copy of his notes that he took upon the trial. That is about the extent of the clerk's duties?—I do not doubt the accuracy of your statement, but I have no means of knowledge in regard to that.

45,667. I was only going to suggest this to you. You have had experience of the practice in the courts: would there be in your view any objection to the appointment of a clerk who should have the ability to do the work that is required to be done in the court?—You are speaking of judges' clerks?

45,668. Yes?—I should be able to answer that question if I were a judge. I know so little about the exact personal duties of judges' clerks that I should not like to answer it.

45,669. It is somewhat important, for this reason, that the amount paid to the judges' clerks is 6,900*l.* a year, which is a good deal more than the cost of another judge?—I could not profess to answer that question; I know so little about his duties.

Master WILLIAM FREDERICK BAKER, called and examined.

45,675. (*Chairman.*) The office that you hold is that of senior master in the taxing office of the Supreme Court?—Yes.

45,676. How long have you held that office?—I have been 25 years a master, and, I think, I have been senior master about 10 years.

45,677. Before appointment, what was your position?—I was a solicitor in practice in the City of London for over 21 years.

45,678. The taxing office deals with taxation of costs?—Yes.

45,679. Will you tell us what that means?—It means adjudicating between litigants as to what the loser ought to pay, or between a solicitor and his late clients if they have quarrelled as to whether his costs against his clients are proper or not.

45,680. Does your department deal with taxing in all branches of the Supreme Court?—No, not Probate, Divorce, Admiralty, Lunacy, or Bankruptcy.

45,681. Those divisions are outside your department?—Yes.

45,682. When was the taxing office, as it exists now, instituted?—In January 1902.

45,683. Was that consequent upon an inquiry?—What was called "The Taxation of Costs Committee."

45,684. That Committee sat in 1901, and was presided over by Lord Alverstone?—Yes.

45,685. The result of the recommendations of that Committee was to unite in the Taxing Office various operations of taxation which before had been performed in separate departments?—Yes, which departments were a good deal scattered.

45,686. Has the result of that amalgamation been satisfactory?—I think so.

45,687. What is the present staff which deals with the matter?—11 masters, 23 clerks, and two messengers.

45,688. What is the nature of the questions dealt with on taxation?—Take the case of an action which has been tried in which perhaps the plaintiff has failed on some part of his case; it is very often left to the taxing master to say how much of his case as he put it forward has failed, and of which he ought to pay the costs. That is what we call an issue; that is very difficult.

45,689. That means separating the costs into the parts attributable to one issue and to the other issues?—Very often it means, practically, trying the case over again, and reading the evidence and seeing as to each

45,670. (*Mr. Shipley.*) I gather that you think it would be in the interest of the public if there were more masters appointed?—A few more, yes.

45,671. You have not formulated in your mind how many?—No, I have not. I should think it would be advisable, in the first instance, to appoint only one, or at most two—not more.

45,672. I am not quite clear as to who forms the Committee of Control?—That committee consists of three masters, and was originally formed in consequence of one of the recommendations of Lord Coleridge's Committee.

45,673. (*Chairman.*) The Commission have received two representations from members of the Central Office; one is a representation from the first, second, and third class clerks in the Central Office, and another from the writers in the Scrivenery Department. Have you seen those representations?—I saw one some time ago. I have not seen the text of the representation from the Scrivenery Department, though I have heard of the purport of it. If you have any questions to ask me upon that, I would rather like to answer them after I have studied it, because I have not it before me.

45,674. We shall, no doubt, have before us representatives of the bodies who presented those statements, but we should like also to have your opinion on the representations. Perhaps you will kindly let us have a statement in writing dealing with them?—I shall be pleased to do that.

(*Chairman.*) That is all we have to trouble you with. We are much obliged to you for your evidence.

witness what particular part of the case his evidence had related to.

45,690. Would the greater part of the cases be not cases of that nature, but where it is a matter of taxing the whole of the costs?—Yes.

45,691. In cases of that kind does the taxation follow well recognised and known rules?—In a sense it follows rules, but there is an infinite variety in the questions that arise. As many varieties of questions arise in taxation as arise in the trial of actions in court.

45,692. How far is the operation of taxing a matter of applying rules (complicated rules, no doubt), and how far is it a matter of individual discretion in each particular case?—Very largely discretion. The judgment of the individual master governs nearly all of it. The routine, or what I may call the 6*s.* 8*d.* part of it, is very largely done by the clerks.

45,693. (*Mr. Coward.*) The summonses and orders?—Yes. On the Chancery side you find an affidavit, and if it is relevant, all the details of swearing it and attending the deponent, and so on, are details for the clerks. But when you come to higher and more difficult questions those have to go to the masters.

45,694. (*Chairman.*) What sort of question would that be—the amount of a fee paid to counsel?—The amount of fees paid both to solicitors and counsel, and very often the necessity of three counsel and expert witnesses.

45,695. (*Mr. Coward.*) And the number of the expert witnesses?—Yes, the number of expert witnesses, the materiality of their evidence, as to the part on which the plaintiff has not succeeded wholly, or the part of the case on which he has succeeded. The scientific witness gives us a very great deal of trouble.

45,696. (*Chairman.*) On all those points has the result of experience been to arrive at well-established and recognised principles?—It is very difficult to say. We endeavour to get unanimity and uniformity—that is an essential; but where 11 men are exercising discretion on ever-varying cases, it is impossible to say that there is one standard to which you can bring it.

45,697. When a solicitor presents his bill, can he tell with fair accuracy what items will be reduced and what will not?—He can form very little judgment until you have heard the case, particularly in contested cases. A very considerable part of our responsible work, that is, in the way of individual responsibility, is in regard

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to what are called Chancery Fund cases, where costs are payable out of a fund—either a fund in court or a trust estate. There it is only the vigilance of the taxing master and his staff that stands between over-charge and a proper charge.

45,698. In those cases the estate is not represented?—There are generally a good many solicitors in any large fund case, but they are in the same interest; they are not fighting each other; each is going to get his costs out of the fund, and very seldom do they attack each other. In party and party-contested cases you have an opponent who is actually fighting, but in the Chancery Fund cases there is very little contest, and that is where the taxing master and his staff must be particularly on the alert.

45,699. It is your responsibility to protect the interest of the fund in such cases?—Yes. Out of the total Chancery costs in 1914, amounting to 696,000*l.*, about 407,000*l.* were funds costs, where, practically, the taxing master is the only man who stands between the fund, or the beneficiaries who take the fund, and the professional men who are each of them wanting to get as much as they can—I do not mean to say improperly, but their estimate as to their value is not always ours.

45,700. Can you tell us the total amount of costs taxed in a year?—Since 1902 to 1914 I think we have taxed nearly 18,680,068*l.* That is a yearly average of 1,436,928*l.*, and the total amount taxed off in that period has been 3,837,437*l.*

45,701. That would be something like 20 per cent. taxed off?—Approximately that is it. In the figures for last year, which are not yet published, there is a considerable fall. The total costs taxed were 1,139,983*l.*, and 204,835*l.* were taxed off. We used to reckon the average volume of taxation for the year as about 1,500,000*l.*

45,702. Is the volume diminishing at present?—It is diminishing a little. It has fallen off 188,000*l.* in the last year.

45,703. Do you consider that is due to the effect of the war?—I attribute it myself almost wholly to the war. On the King's Bench side the fall is 111,000*l.* and 77,000*l.* on the Chancery side in the year. The Courts Emergency Powers Act has practically made it very little use a plaintiff suing if the defendant is to set up that the war has crippled his resources and he wants time. I look upon it that the Emergency Powers Act has very largely stopped King's Bench litigation, and to a certain extent Chancery work—for instance, foreclosure proceedings and so on. It is quite a phenomenal fall, and I can only attribute it to the war, and I imagine when the war is over litigation will be making up for lost time, and there will be a rush of it.

45,704. Given that there is this large amount of taxing work from the various divisions of the Supreme Court, how is that divided among the taxing masters?—Equally by ballot—rota as we call it—except as to two particular branches. The Commercial Court work until the transfer took place was done by one master, Sir John Macdonell, by arrangement, because it was thought better, and we continued that. I started it when it came to the Taxing Office, and kept it up for a year or so and then it went to another master, and he had it for a year or so, and now the present master who has taken it has had it for some years; he likes it and suitors are satisfied with his work and there is no particular object in disturbing it. I discussed it with Lord Mersey (Mr. Justice Bigham as he then was), and he thought it was a very good arrangement and thought it should be continued.

45,705. Does that system of distribution work satisfactorily to secure equality of burden?—Quite. Then the election petition work I take. At first we used to sit with two masters, but it was found there was not much advantage in that after we got into it, and I have been taking it on when election petition work arises.

45,706. That is comparatively seldom?—It is not often, but when it does come there is a great deal of trouble. I can illustrate what a master has to do there. The judges who try the election petitions will leave it to the taxing master as a rule to find out what issues or

what cases of corrupt or illegal practices have been established by the petitioners and give him the costs of these and sometimes make him pay the respondents' costs of those on which he has failed. That means going through the whole of the evidence, and there is any amount of controversy, and it takes days very often; the charges are heavy and come to very large figures.

45,707. Is there a statutory qualification for the appointment of the taxing masters?—It is five years' practice as a barrister, or solicitor, or special pleader, or special pleader and barrister—practically it means a barrister or solicitor of five years' practice.

45,708. Of the present masters what proportion have the barrister qualification, and what proportion have the solicitor qualification?—There are one barrister and 10 solicitor masters.

45,709. Is the barrister master a recent appointment?—No, he has been there since 1902.

45,710. So that all recent appointments have been solicitors?—All recent appointments have been solicitors.

45,711. In whom is the appointment vested?—In practice now it is with the Lord Chancellor, but I am not quite familiar with the arrangement. Under the statute, I think, it has to be alternately; the Master of the Rolls, the Lord Chief Justice, and the Lord Chancellor. We know in practice the Lord Chancellor appoints wholly to the Taxing Office now, and I believe he does not appoint on the King's Bench side.

45,712. In your opinion is the solicitor's experience more valuable than the barrister's experience for a taxing master?—Naturally, a solicitor is more familiar with costs, which he has been making his living by in all its detail; but I think the addition of one or two members of the Bar is useful; we get then an independent mind. In the old days, before the transfer in 1902, all the King's Bench costs, or practically all, were taxed by barristers. At the last stage I think there was only one King's Bench master who had been a solicitor.

45,713. Did Lord Alverstone's Commission make any recommendation on that point?—No; I do not think anything was said definitely on that point.

45,714. Do you consider that the present system of appointment works satisfactorily?—I think so.

45,715. Do you think the right men are appointed?—I think so, absolutely. I am not referring to myself, but speaking of those who have come in later. It occasionally happens that a master is ill or breaks down, and has to go away for two or three months, and a deputy is required. Sir Kenneth Muir Mackenzie has almost invariably asked the senior master if he could find a practising solicitor who would be competent to do the work as well as a permanently appointed master; and it is not easy to find a man who will give up practice for a temporary appointment. But I think I may say that the recommendations I have made have always been adopted by Sir Kenneth; and the deputies, although they have no legal or moral claim to appointment, have almost invariably been appointed either Taxing Master or Chancery Master when a vacancy has occurred, and they have proved good men.

45,716. That gives an opportunity for a trial trip, so to speak, in judging whether a man is suitable for the work?—I do not mean that all good appointments are limited in that way. I think all the appointments have been good. I can say of my colleagues that they know their business, and are doing their work well.

45,717. The suggestion was made in evidence before us that it might be advantageous if a standing committee existed on which the department should be represented, and, possibly, the Civil Service Commissioners, to advise the Lord Chancellor as to the qualifications of candidates. The Lord Chancellor would make the appointments after considering the recommendations of that committee. Do you think that that would be an advantage?—I can hardly think it would. Unless the committee are brought closely in touch with these gentlemen in the solicitors' branch of the profession, their recommendations would be rather in the air. Practising solicitors know pretty well, and I take it the permanent secretary of the Lord Chancellor knows, who are the men who are doing good work and have got

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practices, and so on. Those are the men who come on as taxing masters.

45,718. You would say, generally, that you regard the present system as satisfactory, and do not think it necessary to modify it?—Certainly I do not think you can improve on it. It is practically analogous to the system on which judges are appointed; that is, the selection is made not by competition or examination, but from men who are known by their practice.

45,719. (*Mr. Coward.*) Not for political reasons?—No, I do not think any taxing master is appointed for political reasons.

45,720. (*Chairman.*) As regards the clerical staff of your office, of how many clerks does it at present consist?—23 clerks all told. One of those is the sitting master's clerk—the rota clerk he is called; he must be an entirely independent and trustworthy man. The first process in taxation is to take the order for taxation to the sitting master's clerk, and he then ballots it to a particular master. It is perfectly open to him, if he is open to influence, to select the name that the practitioner wants.

45,721. Have practitioners decided preferences?—Undoubtedly. I am afraid it is not limited to taxing masters; they used to have preference for judges, but that has been stopped.

45,722. (*Mr. Boutwood.*) Is it an actual ballot?—Yes, an actual ballot. There is a box; three ivories for each master with a master's name on each are put in on the right-hand side of the box (which is venerable by age), and the rota clerk, when an order is put before him, and it is stamped that it has not been previously referred—the solicitor has to certify that—to any particular master, opens the box on the right-hand side, takes out an ivory, and puts it in a slot on the left. In that process he can see perfectly well what name he is taking out, and if he wants to favour a practitioner, or is open to corrupt influences, he can do it.

45,723. (*Mr. Graham Wallas.*) Could not that be got over by a slight mechanical ingenuity, and making a new box?—I think so, but when we got to that I think we should be hardly trusting any of our clerks.

45,724. (*Mr. Holt.*) Do you suggest that there is such a difference between the conduct of different taxing masters as to make it a matter of serious moment to the solicitor which taxing master he goes before?—I do not think so, but I am sure the profession think there are differences, and they would rather get before one master than another—I think it is without justification.

45,725. (*Chairman.*) Are the clerks also appointed by the Lord Chancellor?—By Sir Kenneth, yes, but always after consultation and communication. At present every clerk who comes in has to go to the senior master.

45,726. Are the candidates sent to you when they first ask to be admitted to the candidate's list?—That is so.

45,727. Is that a candidate who applies specially for admission to the Taxing Office?—Before they get on to the list of candidates I have to ascertain all the qualifications, and form my own judgment from the examination of a man whether he is really likely to be a capable man.

45,728. You, after seeing the man, express your opinion to the Lord Chancellor's secretary?—I take a note practically as if he were a witness being examined. I make my own notes, so that Sir Kenneth can see the details—who he is, where educated, what experience he has had, and what office he has been in. It is a thorough examination.

45,729. Are they candidates who are asking to be put on the special list for the Taxing Office?—That I am not quite sure about. I think so. That has not come before me. They are sent to me to be seen. I have to say whether the man is a fit man for the Taxing Office or not. Whether he ultimately comes to the Taxing Office because of that, I cannot say. Not infrequently, when a vacancy has occurred in a particular master's chambers and he knows of a good man, he will suggest his name to Sir Kenneth, and, if he appears to be up to our requirements, the master will practically have his choice in that way.

45,730. After nomination the candidate has to pass a qualifying examination?—I believe now he has.

45,731. Which is not of much value?—No.

45,732. Do you get the right kind of man by this system?—They are excellent. I can speak emphatically on that subject.

45,733. At what age are they generally appointed?—I think 26 is about the limit, but it can be exceeded—under 26 I should say.

45,734. The limits are 20 to 30, I think?—I believe so. Again, I am not the authority for that. Sir Kenneth Muir Mackenzie regulates that. But, as a matter of fact, on my own knowledge of their ages they seem to average coming in at 26—some of them younger.

45,735. Are they generally gentlemen who have had experience in a solicitor's office?—Yes, that is essential—absolutely essential in my opinion.

45,736. In the case of recent appointments, have they invariably had that experience?—I do not remember one who has not. I am sure there is not one. My own junior clerk, who succeeded my second clerk, who was promoted to a principal clerk quite recently, is a public school boy, and he was admitted as a solicitor and practised as a solicitor, and then applied for appointment, and I wrote to Sir Kenneth. The man I had parted with very reluctantly, and who was promoted, was one of the best clerks I could possibly have, and I told Sir Kenneth that I wanted a good man, as a good deal of extra details and correspondence and statistics fall on the senior master, and Sir Kenneth said, "I think I have a man for you," and he sent me this man to consider, and I found his credentials were quite good. We have just been finishing the judicial statistics for 1914. That means that the returns of 11 masters have to be split up, analysed, and grouped for the judicial statistics, and an inaccuracy there would be very awkward. I notice he has done his work very well.

45,737. Among the appointments of the last 10 years have there been any men who have not had experience in a solicitor's office?—I cannot recall one. The clerk I spoke of just now, who has recently been promoted, gave up 180*l.* a year in a solicitor's office to come into the Taxing Office at 100*l.* on the chance of promotion.

45,738. And the certainty of a pension?—He was a most excellent man—one of the ablest clerks I ever had in practice. I should say that our staff is exceedingly good. Speaking now as a man who has been in practice as a solicitor, I should think there are very few solicitor's offices with as many clerks of as high a standard of ability and capacity.

45,739. Could an able man who came into the office without experience in a solicitor's office learn the work rapidly?—Not rapidly. It would take a long time, and I do not think he would ever really get the touch of it in the sense of a man who has actually practised and has had the daily work of a solicitor's office: going to chambers and all the routine work. It would be very difficult for a man to imagine all that because he sees the charges for it in a bill of costs.

45,740. As regards the promotion of clerks, the Lord Chancellor makes the promotions?—Yes.

45,741. Is there a committee of masters to recommend clerks for promotion?—No, not at all.

45,742. Is your opinion asked on questions of promotion?—Sir Kenneth Muir Mackenzie has been good enough to ask me, but there is a sort of rigid limit apparently at present. There are 11 principal clerks all doing the same work, and only four of them are first class clerks.

45,743. That is to say there is one principal clerk attached to each master?—Yes.

45,744. So that your nomenclature in the office does not correspond exactly to the classification in the establishment list?—No.

45,745. There are four first class clerks and nine second class clerks?—Eight second class clerks.

45,746. That makes 12 clerks, and there are 11 masters. Of those 12 clerks in the first and second classes, 11, I understand, are attached one to each master as principal clerk?—Yes.

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[Continued.]

45,747. In the office you know them as "principal clerks"?—Yes.

45,748. What does the twelfth clerk do?—The twelfth is still a junior clerk. One of the masters now has two second class clerks. The reason, as I understand it, is that the standard number of second class clerks for the Taxing Office has been regarded as eight.

45,749. Then, in fact, your distribution, according to the work done, does not really correspond with the distribution in classes for the purposes of pay?—No, certainly not.

45,750. Your distribution divides them into principal clerks and assistant clerks?—Junior clerks, we call them.

45,751. Is there a clear and definite distinction between the work of a principal clerk and the work of a junior clerk?—The principal clerk takes the more important part of the clerks' work. The junior clerk, when the case is brought to him from the rota, sees first of all that the order does direct a taxation, and so on, and then he immediately sends notice to the parties concerned to lodge their bills. Then there are constantly notices reminding people that they have not lodged their bills, or that papers are wanted. There is a great deal of routine work of that kind which the junior clerk does. He keeps the taxing master's register, which records every case which comes to the individual master, so that subsequently, if another taxation arises in the case, it can be known at once what master it ought to go to. He also keeps the fee-book, which is split up for the judicial statistics into a number of separate heads, and requires care. Then he does the casting up of all the bills; that is three columns on each page—that is to say, the profit charges in one column, the disbursements in another, and the master's taxings-off on the left hand. That is carried to a summary, and in his work in that respect he is practically without control; it depends upon his accuracy. The solicitor's clerks have first of all cast it, but I am afraid arithmetic is not their strong point, and there are frequent mistakes; but the junior clerks are really most accurate. I constantly see corrections.

45,752. The junior clerk's work does not include any actual scrutiny of the items in the accounts?—At times he will do "vouching," as we call it; that is not merely seeing a receipt for money, but seeing that the papers are there of the proper length, and that they are not mere copying or padding. He has a great deal to do with that. When the principal clerk is very fully occupied, the junior clerk will take some of that work which is more particularly the principal clerk's work. Inquiries are going on all day long, and the junior clerks have a very disturbed life, and it is a wonder to me that they are so extremely accurate in their castings, with all the hubbub there is. The mistake of a single unit in the pounds column may easily lead to a difference of 100l.

45,753. The case then passes on to the principal clerk?—Yes. Taking my own chambers, my principal clerk (who is an old Cambridge man, and an admitted solicitor) has been there about 25 years, and for 15 years has been doing my principal clerk's work on second class pay, and he knows his work extremely well. I look at the orders when the bills are brought in, or very often before, and see the class of case. I see the bill, and I say that may go to my clerk. He will then give an appointment and see the parties, and have it fought out before him, if it is a small case. If they want to see me they come into my room. If they are satisfied with his taxation, he sends it to me and I look through it, and if I am also satisfied, it goes forward. Therefore he is taking a good deal of the taxing work. In addition to that he is going through long bills, some of which run into thousands of folios, and he checks all the papers—mountains of papers very often—to see that they are the proper length, and that there is no redundancy, and generally prunes them down. That is all subject to coming before the master afterwards, but he is very steadily employed all day long on that work. The overflow of it goes to the junior clerk. In that sense they both do the same work, and it is good preparation for the second class. I found my late junior clerk, who is now promoted, was so good that, to encourage him, I used to let him take some of the smaller

taxations, subject to their coming to me, and he always did them very well. He is a man who is making notes of cases bearing on taxation of costs. Proper note-books most of the clerks have, I think. The oldest clerk in the office is the author of the standard book on taxation of costs.

45,754. When a case goes to the master, are the parties always summoned to appear?—Always. Nothing is done behind their backs.

45,755. No taxation is completed without the appearance of the parties?—I should add that if it is a fund where there is no controversy, very often one solicitor appears for all parties; his bill will first of all come before the master to see what it is about, and then the master will refer it to the principal clerk to vouch, that is, to go through the papers, see that they are required, and that they are not padded with unnecessary copying charges, drawing, and so on. These are apparently insignificant details, but they mount up in the course of a year and make a good deal of difference. The principal clerk will go all through that and bring it to the master, and if the master is satisfied it is all fair, it is very often sent back to the solicitor, and he is told to lodge it unless he wants to see the master, which he very often does not require. A great deal of that class of work—the non-contested work—where, as I said, the master is the only protection to the public, they do not come back to the master upon, they accept what you have done. If they want to appear you give an appointment and they come and discuss it.

45,756. But in contested work there is always a fight over items?—Always. Not only do we hear them but hear them a great deal too much, so many of them are very persistent.

45,757. (Mr. Coward.) May I suggest that the master might explain, if it is desirable, exactly what the point is about this. In a bill of costs in contentious work there are always a vast number of items which are scale charges, as we call them; but then you get to the items that are matters of discretion, more especially "Instructions for Brief"?—Quite so. I would not say "more especially 'Instructions for Brief,'" but I would say specially counsels' fees.

45,758. So far as counsels' fees are concerned, those are fees that the solicitor has paid, but which, as against the other side, he wants to get the taxing master to allow in order that he may recover them. But the one item in a solicitor's bill which is open to real criticism more than any other is the "Instructions for Brief," and in that item the solicitor gets a substantial sum for all his labour really throughout the case?—That is where the master's experience comes in.

45,759. (Chairman.) That is the principal point on which a master has to exercise his discretion?—No, I will not say that. It is the principal point as affecting the solicitor's own pocket. That item represents practically his fee for the work. I cannot define how you arrive at a conclusion; it is experience and touch when you have seen all the papers and heard endless discussions.

45,760. (Mr. Coward.) You certainly must have great experience to arrive at a conclusion?—You cannot do it without. I have allowed as much as 5,000 guineas in a case and the charge may only amount to 5l. in others, and very often the 5l. may be reduced.

45,761. Did you tax the costs in the Water Board case?—I did. They were very heavy costs, altogether about a quarter of a million, I think. The number of counsel and the amount of their fees is very often a very troublesome thing. The third counsel question, as we call it, very often goes to the judge on appeal.

45,762. (Chairman.) Going back to the question of promotion, promotion is made by the Lord Chancellor, and the Lord Chancellor's secretary consults you as to the merits of the men?—Yes.

45,763. Is promotion by merit or by seniority?—Both. If the men's merits are equal, or fairly equal, the senior will get it, but we have passed over men.

45,764. Looking at the list of dates, it would appear that there has been one case in which a promotion was made out of the order of seniority?—Yes.

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[Continued.]

45,765. There are possibly two, but, generally speaking, the order of seniority is followed?—Yes, if they are good enough to be promoted they get the promotion; but by no means do we take a man who is not qualified—partly in self-defence. We have the most limited number of clerks for the work we have to do, and to get an inefficient clerk is a very great tax on a master's time and powers.

45,766. Have you any suggestion to make on the subject of promotion or classification?—Not as regards classification. I do make the suggestion that I have made in the *précis* of my evidence, that any principal clerk who has served his 11 years as a second class clerk should be entitled to promotion to the first class.

45,767. That would mean a variable number of clerks in the first class?—Yes, I think most of these have served their time and would be entitled to promotion. I am quite unable to explain to myself why some of our principal clerks are in the first class and seven of them remain second class clerks, where they are doing precisely the work that the others do; and also analogous work to what is done by first class clerks, say, in Chancery chambers.

45,768. (*Mr. Boutwood.*) Are the seven quite contented with their position?—No, anything but contented. Take my own senior man as an illustration: He has been doing excellent work for 15 years as principal clerk, and he is still a second class clerk.

45,769. (*Mr. Holt.*) What you are really suggesting is that the three classes should be reduced to two?—There are not three classes as regards work; two classes only. You are speaking of those not yet promoted to the first class.

45,770. You have first, second, and third class clerks?—What I mean is, that a principal clerk who is in the second class, and has served his 11 years, should then be entitled to be made a first class clerk; and, similarly, the third class clerk, when he has served his 11 years, should be promoted to the second class. They are doing highly responsible work, all of them.

45,771. (*Chairman.*) That incompatibility, as I may call it, between the organisation of your office and the classification in three classes arises from the system of attaching a clerk to each master?—Yes.

45,772. Is that a necessary system?—We cannot do without it. You cannot possibly have a combination of second class clerks doing masters' work indiscriminately; there would be such inevitable confusion.

45,773. Would it be impracticable to have the first class clerks dealing with the more important cases—the larger cases—irrespective of what master was going to complete the taxation, and the second class clerks dealing with the less important cases?—I think so. It must be left with the master to deal with the cases on their individual importance and merits as they come in. We are constantly having to communicate with our clerks, not merely about routine work, but about papers. "What is this witness? What about those 'fees'? What about this, that, and the other?" To have to go to some general office to find out those details would be perfectly impracticable.

45,774. You think the only practicable system is to have a clerk attached to each master?—Undoubtedly; and two clerks is the minimum, in my opinion. I took a little trouble to ascertain from the outside what the opinion of one very well-known member of the profession was. I am not at liberty to mention his name, but he writes contrasting the present system on the King's Bench side: "Now the system of vouching is extraordinarily complete." That is an outside testimony to what our clerks are doing.

45,775. I gather from what you have said that there is some complaint about the slowness of promotion?—There is a very considerable feeling about it.

45,776. There is no possible promotion for a first class clerk beyond the first class?—No; I do not think so.

45,777. Do you think it would be advisable to make a first class clerk eligible for appointment to a mastership, assuming him to be fit?—I do not think so. They have had experience in a solicitor's office, but not a position of responsibility in the conduct of litigation. They know the routine and the details, and, if they

have brains, they have picked up a good deal, but that is a very different matter from conducting litigation.

45,778. Do they not learn very well in their work in the office the principles and practice of taxation?—They learn the work, of course, but I do not think they get that touch which you require as to how cases are actually carried on in the face of the enemy, so to speak—the other side—or the bearing of evidence. None of them take evidence. There is another class of case, namely, taxation under the Solicitors Acts, which very often involves questions of conduct; and, except in two district registries—Liverpool and Manchester—I think no district registries take taxation under the Solicitors Acts. To tell the profession that their taxations, which are very bitter and very hostile between their late clients and themselves, are to be conducted by an ex-clerk in the Taxing Office, I think, would lead to very strong opposition. Good men as they are in their particular departments, I do not think they have the experience which active practice has given to masters who have been solicitors or barristers.

45,779. (*Mr. Coward.*) It is not their rôle?—No.

45,780. (*Chairman.*) At present there is no age limit for retirement?—No.

45,781. What is your opinion as regards fixing an age limit? Dealing first with the case of the masters themselves, do you think any age limit would be desirable?—I do not think so. I am 71 to-morrow, and I do not intend to stay on much longer, but I do not think I am incompetent for my work, and if I became incompetent a hint from headquarters would end it. The Lord Chancellor has practically the power of removal.

45,782. But that power, I suppose, would only be exercised in an extreme case?—Yes; but I do not recall any case of a master who has really stayed on when he ought to have gone.

45,783. You do not recall any such case in the past?—No I do not. Some of the older men are some of the best men we have. I remember a man, whom we all hold in great reverence, Mr. Ryland, who died in 1901, one of the ablest men we ever had. When he was appointed some sort of limit was suggested, and that at 70 he should retire if called upon. When he became 70 he wrote to remind Sir Kenneth Muir Mackenzie that he was under that condition, and Sir Kenneth wrote back to say that the suggestion that Mr. Ryland should retire horrified him, and so it did all of us. He was of the greatest assistance. The judges had spoken of him in the same terms. I remember the Court of Appeal saying: "Mr. Ryland knows more about costs than any of us," and to have compelled him to retire when he got to 70 would have been a great misfortune to the Taxing Office.

45,784. Recommendations have been made by some of the numerous commissions and committees that have sat on different legal offices that officers of the class of master should retire at 70, with power to the authority—the Lord Chancellor in this case—to prolong the service for five years if thought desirable. Do you think that would be a desirable system to apply?—I do not think it is any improvement on the present system. The same difficulty the Lord Chancellor might feel would arise whether he should say to a man who has become inefficient: "I think you ought to retire," or say to him: "I think you are competent enough to go on,"—it is very much the same.

45,785. Still in that case the burden of proof is put in the other direction?—That may be so, I do not think myself there is any particular object in an age limit.

45,786. What would you say as regards the clerks? In their case do you consider an age limit desirable?—No, I do not. The oldest clerk on the list is probably the best in the office at this moment.

45,787. Would not an age limit do something to remedy the dissatisfaction as regards the rate of promotion?—No. The remedy wanted is that the hard and fast rule of only eight second class clerks should be done away with.

45,788. But assuming the present scales of salary and the number of each class were not modified, retirement at a fixed age would do something to accelerate

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promotion?—No doubt, if left as it is. I am bound to say that it is quite an illogical arrangement at present, and it rests on no principle that I can discover, except economy.

45,789. As regards leave and vacations, is the office open during vacations?—Upon every day of the year except when the offices are closed by order, and all through the vacations. Under the rules one master and of course his two clerks remain on duty every day throughout the vacation.

45,790. Then, except for that one master and his two clerks, do the rest of the masters and the office get the full benefit of the Long Vacation?—We all get the vacation. In the shorter vacations—Easter, Whitsuntide, and Christmas—the clerks do not get quite the same number of days as the masters do, under the rules.

45,791. There is work to be done by the clerks apart from the presence of the masters?—The masters take the same vacations as the courts take. We have nothing to do when the courts are not sitting or practically nothing. Our work comes from the judges; if there are no cases tried we have nothing to do.

45,792. Is the work entirely up to date?—Absolutely.

45,793. No bills waiting?—There may be bills that have come in in the last few days. The difficulty is to get the bills in. Every morning I have letters put before me asking for time. I do not think any London solicitor will say that there is delay at all now in the Taxing Office, and if he did I am quite sure he would be mistaken.

45,794. (*Mr. Coward.*) He would not know his business?—No.

45,795. (*Chairman.*) What are the hours of attendance when the office is open?—10 to 4. The solicitors do not care to come much before 11, but there is always routine work to be done before. Personally, I give appointments on from 11 o'clock.

45,796. I gather from what you have told us that for the clerks there is a good deal of work to be done, irrespective of the attendance of solicitors?—A good deal. It is only fair to them to say that our clerks take work home constantly.

45,797. Are they ever required to attend more than the six hours?—They very often do; I should not like to say that we require them to attend, because it is not necessary. They are always at our disposal, and a master very often sits beyond 4 to finish a case. I repeatedly do so, partly to meet the convenience of suitors, and also for my own convenience, because if you adjourn a case which is intricate, and have to pick it up again a week or so later, you have to go over a good deal of the same ground in your own mind.

45,798. Have you an attendance book for the clerks?—Yes; they all sign it.

45,799. Is that reviewed by the senior master?—It is brought to the sitting master every morning.

45,800. You told us that certain of the divisions of the Supreme Court are outside the work of the Taxing Office?—Yes.

45,801. Would you be in favour of further consolidating the work by bringing any of those departments into the Taxing Office as respects taxing their costs?—I state my personal opinion here. There is a difference of opinion. We are all of opinion, and always have been of opinion, that lunacy taxation should be transferred; but we are in the proportion of eight to three as to whether the transfer of the Probate, Divorce, and Admiralty and Bankruptcy, is desirable.

45,802. That is to say, in the case of those divisions, eight are against it and three are in favour of it?—Yes. I was on the Taxation of Costs Committee in 1901, and I suppose I have to a certain extent recanted. Then the experiment had not been tried. I thought then it was policy. The Probate, Divorce, and Admiralty Division, for reasons which I suppose I have nothing to do with, was not even proposed to be transferred then. It was thought by those familiar with that division that the taxation had better remain where it was. Bankruptcy has also remained suspended. I have had 13 years' experience of the work, and there is such an infinite variety in what we already have that I do not think there would be any improvement in introducing such very varying procedure as Bankruptcy

and Admiralty particularly, and splitting it up amongst 14 different masters and their staff. I mentioned Admiralty particularly, because very few of us, of course, have had experience of Admiralty work, and there is one branch of it—I inquired into it pretty closely at the time when the Taxation of Costs Committee was sitting in 1901—the detention of witnesses in Admiralty cases, that is standardised there. They are, most of them, nautical witnesses, masters, officers and crew, very often detained for months; and to have 14 different minds adjudicating upon what the master was to have in this case and the master in that case I do not think would be any advantage. It is now dealt with by one mind which has had a large experience in it. True, if it is transferred, an individual taxing master might take it and become as efficient, but I say with diffidence, and I ought not to say otherwise, I have no doubt it is done efficiently now, and I very much doubt whether it would be equally efficiently done; in fact, it is almost difficult to believe that it could be as efficiently done if 14 men were doing it.

45,803. (*Mr. Coward.*) You would not have uniformity?—Nothing like uniformity.

45,804. (*Chairman.*) Is there also a difficulty in making a transfer of those two branches of work, arising out of the fact that the work is conducted in different buildings?—I think so. We often have to see a Chancery master to get his opinion. Less frequently we see a King's Bench master in a case with which he has had to do, and it is very convenient. The registrars at Somerset House would be rather more inaccessible. It is true one of them attends at the Royal Courts of Justice every day, but he may not be the man you want to see; it may not be his case.

45,805. And also there would be a question of transporting papers backwards and forwards?—I express the opinion with very much hesitation, as two or three of my colleagues differ, and think it is quite practicable.

45,806. In the case of bankruptcy work the question of a separate building applies also?—I think there is a still stronger objection there. It has become more and more minute; every little detail has to be sanctioned in due course by a committee of inspection, and it is requisite for the taxing master to keep one eye on the file of proceedings and the other on the bill of costs; he is also dealing with auctioneers' and brokers' charges and a variety of small things which one man gets experience in and does very well; but again, if you divide it up amongst 14 men I do not think you will get the same efficiency. I believe the bankruptcy taxing work is done excellently, and I cannot imagine why you should change a system, which is working undoubtedly well, to make an experiment. I acknowledge I have altered my opinion, but speaking with my experience of 13 years I think we have quite enough to do.

45,807. (*Mr. Graham Wallas.*) Have any of the taxing masters been solicitors in any other part of the United Kingdom except London?—No, none. They have all been London men.

45,808. And I suppose all the clerks are London men?—Yes, all London men. Practically all the litigation takes place in London.

45,809. But there are solicitors practising in the provinces?—Yes. Of course, there is a good deal of work done at assizes, but almost all our work comes from cases tried in London.

45,810. And where the solicitors are London solicitors?—Yes, not necessarily, but sometimes London agents for country solicitors.

45,811. In other Government offices there is a great deal of mere mechanical routine work done by typists, assistant clerks, and people of that kind who are not going to work their way up into the higher branches of the work. Is there anything of that kind with you?—Nothing.

45,812. Your work, however routine or mechanical, is done by men who are on the rota to go up to the very top?—Very little of it is mechanical. We have very little of that except correspondence and formal notices.

45,813. I mean the work of registering and filing?—We have not any filing.

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45,814. I am using the word filing in the business sense of keeping documents?—They are kept in the Taxing Office, but there is very little routine work. Almost all the work requires a man to have some brains.

45,815. From the moment a third class clerk comes in, is he exercising an important discretion?—The junior clerk is to a considerable extent. I am somewhat oppressed with the feeling that a junior clerk, if he goes wrong, or if he is careless, may make mistakes which may undo all that the taxing master has done. I do not speak without reason for that, but from actual practical experience in my own chambers long ago. I used to see the bills, and I found that the clerk never corrected a figure; the solicitor's figures were always assumed to be correct. I knew that was practically impossible. I then had a selection of the bills cast by another clerk carefully, and found hardly one was correctly cast, in some cases against the solicitor, in others in his favour. When you are dealing with large figures—and they may run into thousands of pounds—a mistake in the thousands column, in a Paymaster-General's matter, would be rather serious. That all depends on the accuracy and good faith of the clerk. I should add that in that particular case the clerk had to go. May I add that it was not through dishonesty or anything of that sort, but he did not do his work properly.

45,816. Do you think you would get a better man if you took him in at 200*l.* to work up to 500*l.*, than if you took him in at 100*l.* and let him work up to 600*l.*?—No, I do not think so. The certainty of it, and the pension, is certainly attractive. My late junior clerk, as I mentioned, gave up 180*l.* a year in a solicitor's office to come in at 100*l.*, because there was the certainty, and, as he thought at the time, a pretty standard rate of promotion.

45,817. You think the initial salary, even when there is such a difference as between 100*l.* and 200*l.*, makes little difference to them?—I do not think there is much object in changing it. The 100*l.* a year attracts good men. I do not know why you should do more.

45,818. (*Mr. Holt.*) Do I understand you to say that provincial solicitors are not fit to become taxing masters?—I should not like to say that at all, but none have ever been appointed. I believe we had one for a very short time, but he found the work, I will not say beyond him, but too burdensome for him, and he resigned. That was before my time, but I know it to be the fact. I do not want it to go forth that I think no provincial solicitor is fit to tax costs, but except in Liverpool and Manchester practically none of them do. In Liverpool and Manchester they tax about 55,000*l.* a year between the two registries. The whole of the district registrars throughout England only tax about 86,000*l.* as against each individual master in London taxing about 130,000*l.*

45,819. But these costs taxed in London are very often costs incurred by provincial solicitors. The litigation which takes place in London is frequently entirely conducted by provincial solicitors; the London agent is a mere manager who arranges it?—A great deal of the litigation is done in London, fighting things out in Chancery and King's Bench Chambers, and so on. The country solicitor has nothing to do with it; the London agent does it.

45,820. But in a great deal of the litigation he has just as much to do?—I do not say at all that a country solicitor cannot become an efficient taxing master; he may for all I know, but he has not the experience in the London law offices which a London solicitor alone gets.

45,821. You were telling us about your very excellent principal clerk and the work he did for you. Do you say that that principal clerk or a principal clerk of

equal ability would not be capable of becoming a taxing master?—I must say so. He came in as a young man when he had not had any experience of active practice or the responsibility of practice.

45,822. But would not 20 years' experience of taxing, which I suppose he probably has had now, be a sufficient education in the art of taxing?—In those 20 years he has not been dealing with the questions the master is dealing with—testing the questions of issues which I referred to, or holding the scales between the solicitor and his late client; they are very responsible cases.

45,823. I thought I understood you to say earlier that this clerk, in fact in some cases, did actually do the taxing?—Under me. I select the small case which goes to him. Nothing goes to him which has not been first to me, but I should never think of handing over to him a large and heavy party and party case, still less any taxation under the Solicitors Acts.

45,824. You look at the case, it seems simple and small, and you say to the clerk "Will you please do that for me"?—Yes.

45,825. And that is very often quite satisfactorily done?—Yes.

45,826. Are costs taxed in every case?—In every party and party case, or almost all contested cases. Sometimes, but very rarely, the parties are able to agree, but that is hardly worth mentioning.

45,827. But if the parties were reasonably sensible might not they agree about the whole lot?—They might no doubt, but they do not; they fight about the smallest things.

45,828. But is it more temper than actual difficulties?—No, there are very large questions which arise.

45,829. (*Chairman.*) What exactly is the taxation under the Solicitors Acts?—If a client wishes to have his solicitor's bill taxed he presents a petition, and upon that an order is made that it is to be referred to the taxing master to tax, and take the cash account between the solicitor and his client to see what money he has received. That is where a solicitor and his client have quarrelled and a new man has been brought on the scene. They are always most controversial, with bitter opposition, and I must say that very often there are charges almost amounting to unprofessional conduct and that sort of thing, saying "he ought not to have done this, but he did it to make costs" and so on—a very disagreeable class of case, and often involving evidence. I can recall one case now where I think the bill of costs came to about 18,000*l.*, and somewhere about 8,000*l.* of that was taxed off—I take that at random. Then there are very troublesome questions on cash accounts.

45,830. Have you any system or method for securing uniformity in the work between the different masters?—Yes. There is a very great deal of personal intercommunication. We have also an advisory committee which any master can summon at any time when he wants us to consider something. Four or five of us constitute the committee.

45,831. Four or five selected amongst yourselves?—Yes, a sort of monthly rota. Then we have a meeting of all the masters at least once in every sittings, and everything is there debated. Any master may bring up any question he likes at that meeting, and it is an unwritten regulation amongst us that he will and must report any cases of appeal from his decision which have gone before the judges, so that we may know what the judge has said, and so on. It is a very excellent method of keeping men up to the mark, as of course they do not like to be criticised by their colleagues.

ONE HUNDRED AND FIFTEENTH DAY.

Wednesday, 24th February 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Rev. the LORD BISHOP OF SOUTHWARK.
 Sir JOHN ARROW KEMPE, K.C.B.
 Mr. ARTHUR BOUTWOOD.
 Mr. CECIL COWARD.
 Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
 Mr. PHILIP SNOWDEN, M.P.
 Mr. GRAHAM WALLAS.
 Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. W. STEWART and Mr. WESTON APPS, Writers, Scrivenery Department, Royal Courts of Justice,
 called and examined.

45,832. (*Chairman.*) (*To Mr. Stewart.*) You two gentlemen appear on behalf of the writers in the Scrivenery Department of the Royal Courts of Justice?—Yes.

45,833. How many writers are there in the department?—(*Mr. Apps.*) About 50, I think.

45,834. And the main point of your representation is that the writers desire to be made pensionable?—Yes.

45,835. (*To Mr. Stewart.*) Do you wish to say anything in the first place about the history of the question? I understand that from the year 1871, after the passing of the Courts of Justice Salaries and Funds Act, 1869, the officers of the Courts of Justice generally were paid out of the Estimates instead of out of the Fee Fund of the Courts?—That is quite correct.

45,836. Do you claim that anything should have been done then to establish your claim to pension?—We consider ourselves a permanent body.

45,837. But do you base your claim in any way on anything that was done or not done at that time?—In 1871 the whole of the officials of the department and ourselves were all served with notices from the Civil Service Commissioners to go up for examination. The time, the subjects, and everything else were on the form; but on the representation of the senior master we were declared to be exempt from examination, and a letter came from either the Civil Service Commissioners or the Treasury saying that our certificates could be got if the head of the department would get them for us; but the head of the department declined to get them for us, so that we never got them. I have asked successive masters, but they would never get them for us.

45,838. Did the other officers of the department get certificates at that time?—They were appointed by the Lord Chancellor by order of the Court, and they declined to go up for examination.

45,839. They did not get certificates?—I suppose they got them; but they declined to go in for examination because they had been appointed by the Lord Chancellor by order of the Court, and considered themselves that they were not bound to go in for examination.

45,840. I think the fact is that they did not receive certificates?—Anyhow, they went under the old rules, and their pension was assured.

45,841. So that their pension did not depend upon their obtaining certificates?—I think not.

45,842. Similarly, the question of your pensionability is not dependent upon whether you obtained a certificate or not?—They were assured their pension. If we got our certificates that would have assured ours. I do not know whether they received certificates, or would accept certificates, because they were all provided for under the old rules by the Lord Chancellor and Orders of Court.

45,843. You are not aware whether, as a matter of fact, they did receive certificates or not?—I could not say that. I am not certain. Mr. Stringer will be before you, and he will tell you that.

45,844. In any case, you did not receive certificates?—Because the letter from the Treasury or the Civil

Service Commissioners specially said that the heads of the departments must get those certificates for us. I personally went to the head of my department and asked for my certificate, and he refused. I was ordered out of the room, you might say.

45,845. So that it was not a case of the matter not having been brought before the heads of the department?—No, it was not.

45,846. But the heads of the department did not think it desirable to apply?—Well, they would not do so; they were rather antagonistic in those days.

45,847. May it not be presumed that the reason why they did not apply was because they thought or knew that certificates would not be given?—No; I saw the letter myself in which it was stated that the certificates would be given, if the heads of the department applied for them.

45,848. As regards the question of pensionability, that is regulated by the Superannuation Act of 1859?—I should certainly think so.

45,849. Under that Act, would writers in your position be admissible for a pension, apart from the question of the Civil Service certificate?—I do not think so. I think not. (*Mr. Apps.*) No; the Treasury say that they have no power to grant pension rights to writers under the Superannuation Act of 1859.

45,850. So that quite apart from the question of a Civil Service certificate, as the law stands at present, and as it is interpreted by the Treasury, your claim to pension would not have been admissible?—At present.

45,851. So that the question of Civil Service certificates was not really the determining factor in the case?—No.

45,852. The determining factor is the terms of the Act of 1859?—Exactly.

45,853. When was the Scrivenery Department constituted as it at present exists?—(*Mr. Stewart.*) In 1884.

45,854. A committee sat upon the Scrivenery Department, I think, in 1891?—(*Mr. Apps.*) That was about the time. (*Mr. Stewart.*) It was 1891 when the Scrivenery Board was formed, and they brought in all the work from outside stationers into our department.

45,855. What was the nature of the Scrivenery Department before the changes that were made by the committee in 1891?—We did all the work in the building, but the other work, such as registrars' work and lunacy work, and all those different things, was sent out to stationers. We were a Chancery Department doing affidavits and all that kind of thing. I have served 49 years myself, and when I first commenced there was an old gentleman who had served 50 years, so it was a very old-established department. But these others were brought into our original department.

45,856. Then the changes made in 1891 resulted in an enlargement of the Scrivenery Department?—Yes.

45,857. And the performance there of work which had before been done by law stationers?—Yes. (*Mr. Apps.*) The idea of the Scrivenery Department was to do away with the middle men, the law stationers. (*Mr. Stewart.*) To do away with sweating. The stationer received so

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much, and he gave his men so much less, and the idea was to form the Scrivenery Board, so that the middle man should not be able to make a large profit out of the men who did the work.

45,858. So that the object was to improve the position of the men doing the actual work?—Yes.

45,859. And the result has been to improve their position?—Yes, it has most decidedly improved the position of those that came in afterwards.

45,860. What does your work consist of?—(Mr. Apps.) The work is very varied. It consists of copying, abstracting, examining, making office copies for the general public, copying judges' notes, making cases for the Court of Criminal Appeal, etc.

45,861. That is all copying work of different kinds?—No; it is very difficult to explain. In the case of drafting Chancery Orders that is anything but copying. A man who has to do that will have perhaps half a dozen documents, and of course the length of time it would take him would depend entirely on the length of the documents, and to say that it is plain copying is not right; it is anything but plain copying. I personally have never done that work, but no man, unless he had had some experience in a law stationer's office, could do it; it would take him some considerable time to learn it; from the roughness of some drafts which I have seen myself, he would certainly require some legal knowledge.

45,862. (Mr. Coward.) Do you mind explaining what that means. I personally do not understand it at all?—(Mr. Stewart.) It means that the man must be either brought into our office very young—

45,863. No, would you mind telling me what the work is?—(Mr. Apps.) There are the Orders of the Chancery Division that are drafted by the registrar of the Court, and of course that is a very rough draft; in fact, drafts have to be made of drafts before any engrossment takes place.

45,864. But do you mean to say that the registrar would say, for instance, "Copy such and such a thing," and he would put it quite shortly in draft, "Copy so and so;" he refers you to a document and asks you to make a copy of such and such paragraphs?—Yes, and in cases where the phraseology is common they do not even do that, they say, "Usual order," and a man first coming in to copy a thing like that, where they put "Usual order," would have no idea at all what it meant. A man must have some legal knowledge, some training before he can do it; it would be utterly impossible for him otherwise to do it; that is in the first draft.

45,865. It is a thousand pities that you do not show us an example; I am sure my brother Commissioners cannot understand any more than I can why there should be a difficulty about it?—(Mr. Stewart.) There is great difficulty; it means that a man should either have served seven years in a law stationer's office, or should be brought up almost from youth in the office for years before he can properly do some of the work in our department. (Mr. Apps.) You may not be aware that there are legal abbreviations which no one could possibly know but those who have had some experience.

45,866. Do you mind telling us what? I personally am asking you what, so that I may appreciate what you mean?—I have here a draft of one case before me now; may I show this to you?

(Mr. Coward.) Certainly.

(The Witness explained the same to the Commissioner.)

45,867. It is as I expected; a draft would come down with notes upon it—"Copy so and so," or "Rider A," "Rider B," "Rider C," whatever it is, with a reference to the document from which the rider is to be taken; then you copy it in?—Exactly; but what I want to say is that the difficulty is that there are so many documents and they are so abbreviated and mostly written in pencil, that if I myself were to go and do the thing now (which I do not do) it would be like Greek to me. I am not saying that it requires any great intelligence, because, when once the first copy is made, they make the other copies from their own; but to do it for the first time is certainly not plain copying.

45,868. Nobody suggests that; but is it not work that anybody can learn to do in half an hour?—I do not think so. (Mr. Stewart.) You want years to learn to do it properly.

45,869. (Chairman.) Does it come to this, that the documents from which you have to copy drafts are in some cases made up of different portions of extracts from common forms and from documents?—And from books.

45,870. And that they are written often with the usual legal abbreviation of words?—Yes.

45,871. Does it come to more than that?—It certainly does. (Mr. Apps.) For instance, I forget the exact form, but there is a certain form which the registrar in making out a draft order would never think of inserting, because he thinks the writer would know it as a matter of course; that frequently happens. He would never think of saying "Complete draft" of the particular clause he wished inserted; he would simply say "Usual," and a new man taking it up would have no more idea than the man in the moon what "usual" meant; but a man who has had experience knows perfectly well exactly what the order is he has to insert. It is quite a skeleton.

45,872. In other words common forms are used in draft without necessarily writing them out in full?—In the first place, yes.

45,873. What is the rate of pay?— $1\frac{1}{2}d.$ a folio less $7\frac{1}{2}$ per cent.; it works out at $11s. 7d.$ per 100 folios.

45,874. $1\frac{1}{2}d.$ per folio of 90 words? (Mr. Stewart.)—No, 72 words, and $7\frac{1}{2}$ per cent. is deducted from that to pay for our superintendence.

45,875. That is to say, you get $1\frac{1}{2}d.$ per folio of 72 words less $7\frac{1}{2}$ per cent.?—Yes.

45,876. How does that compare with the payment in the outside trade?—They receive the same, but not less $7\frac{1}{2}$ per cent.; they receive the $1\frac{1}{2}d.$

45,877. Who receives the $1\frac{1}{2}d.$?—The law stationer.

45,878. What did he pay the writer?—I think he paid him $1\frac{1}{2}d.$

45,879. Did he pay as much as $1\frac{1}{2}d.$?—Yes, I think so, when he engrossed.

45,880. Was not $1d.$ the usual payment?—(Mr. Apps.) It is rather before my time, but I think you are right; I think $1d.$ was the general rate.

45,881. (Sir John Kempe.) Is the rough draft that you are describing included in the one payment? Have you to make the rough draft and then make a copy after that, and are you paid only upon the copying?—(Mr. Stewart.) No, we are paid for each copy.

45,882. (Chairman.) What is the result on the average earnings of writers?—(Mr. Apps.) My friend says $160l. 10s.$ at present, but the average in 1910, when we petitioned the Lord Chancellor, was $171l.$; so, apparently, my friend is right; it is less now than it was then.

45,883. I see that the figure of $161l. 10s.$ was given in an answer in the House of Commons in 1912 as the average earnings of writers in the last 10 years?—(Mr. Stewart.) That is what it is at the present time.

45,884. Have you any later figure than that?—(Mr. Apps.) No, I have not.

45,885. That is the average. Is there much variation between individuals? Do some earn much more and some much less?—(Mr. Stewart.) Yes, according to capacity.

45,886. What is about the greatest amount earned?—About 200l.

45,887. Is that the maximum?—That is near there-to. (Mr. Apps.) I do not know the exact amount, but it would not be very much over that, 210l. perhaps. (Mr. Stewart.) That is only in the case of two or three.

45,888. What length of hours does that represent?—Sometimes as much as 16 hours a day.

45,889. Is there any limit to the amount of time you may work?—No.

45,890. Is there any limit to the amount of money you may earn in the year?—No, it is according to capacity and according as the work comes in; sometimes, of course, it is slack and sometimes busy. In a busy time, such as the month of July, when we have to work at hard pressure, we do 14 and 16 hours a day; I do myself.

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45,891. (*Mr. Philip Snowden.*) Do you take work home?—I am working at home every night until 10 or 11 in the busy time; from 8 o'clock in the morning. I have special work wanted in the morning at 11, and I get there as soon as I can after 8; then I have my lunch time, then I go home and have my tea and work sometimes until 11 at night, night after night, to earn that money.

45,892. (*Chairman.*) That is in your own option?—Well, if I did not do it I should earn next to nothing. (*Mr. Apps.*) That is the point I want to make quite clear before the Commission. If you were under the impression that in 1910 the average rate of 170*l.* or even 160*l.* was earned between 10 and 4 o'clock, perhaps there would not be any complaint, but when you are taking it that on an average a writer has to work 12 hours a day frequently, including Sunday, you will see that they are working outside the hours between 10 and 4, and you can judge somewhere about what a writer would earn.

45,893. Have you any figures as to the actual hours worked?—(*Mr. Stewart.*) No, we could only tell by the quantity we do. That is not every night, of course, all the year round; I am only talking of the ordinary busy time.

(*Mr. Apps.*) But I may say that within my own knowledge, taking my own case, I personally work frequently up to 10 and 11 o'clock at night; I am obliged to do it, and frequently on Sundays, because it is simply unavoidable.

45,894. What we should like to get would be the actual average of hours worked during the year. Is there any record of the actual hours you work?—You see, in the vacation, the average would be brought down greatly, because during the vacation, of course, the work is considerably less and the hours very much shorter.

45,895. (*Bishop of Southwark.*) What would you earn supposing you only worked from 10 till 4?—It would be very difficult to say. I do not suppose it would be more than 100*l.* I do not know it would be that even.

45,896. (*Chairman.*) How many folios do you reckon you can do in an hour?—(*Mr. Stewart.*) It is all according to the work. As Mr. Apps says, the work is very different, and you can do half as much again of some work as of other. I myself do the notes for the judge from the master—all cut to pieces; but we are so used to them by years of service that we can make them into proper copies.

45,897. (*Mr. Coward.*) Could you do 15 folios an hour?—No, it must be a very fast writer to do that. You might do it for one hour, but to keep it on hour after hour you must be a very fast writer, and you would have considerable work to do it. (*Mr. Apps.*) As a writer becomes older the less able he is to do it, of course; that is quite clear.

45,898. (*Chairman.*) What do you reckon would be a fair average rate of work?—(*Mr. Stewart.*) I should say eight hours a day.

45,899. I do not mean the number of hours, but the number of folios in an hour?—That is almost impossible to tell.

45,900. (*Mr. Coward.*) No, it is not, really?—Yes, it is. If you had plain copying you could tell.

45,901. How much do you say of plain copying?—Very little of our work is plain copying.

45,902. You will not answer the question?—I should say that an ordinary man could do 12 folios an hour to keep it up. (*Mr. Apps.*) That would be a fair average. (*Mr. Stewart.*) Some could do more and some less; some of our writers earn more, and others earn less.

45,903. It is not engrossing that you do?—We can do engrossing.

45,904. I do not say that you cannot, but the kind of writing that you are speaking of is not engrossing?—But some of our writers have to engross on parchment and do all manner of work, plans, and everything that comes into our department. We have several of our writers who do the plans, and, of course, they earn a little more than others, and then they have the writing to fill up their time. (*Mr. Apps.*) But you must understand that it is not the hard work that we complain of; we never have

complained of that, although it is hard work; but our position is that so long as we remain on this piecework system—payment by results is what the Treasury like to call it—we have no rights at all. Inasmuch as we are on piecework the Treasury say we are temporary men, in spite of the fact that we have men with over 40 years' service in the department.

45,905. (*Chairman.*) We will come to that point presently. I think you will see the bearing presently of what we are asking. The Commission are anxious to arrive, in the first place, at the conditions under which you earn the amount that you do earn, and what the amount that you earn is; you say that you are unable to tell us the average number of hours that you work a day?—I do not suppose I should be far wrong if I said 12 hours a day.

45,906. (*Miss Haldane.*) Does that mean inclusive of vacations?—(*Mr. Stewart.*) No, exclusive; in vacation we do not do three or four hours' work a day, we cannot do it; the work goes off. We have to work very hard indeed in the busy time to provide for the vacations.

45,907. (*Chairman.*) So that the vacations would considerably reduce the average?—Yes. (*Mr. Apps.*) That would, of course, be so.

45,908. So that the position as you represent it is that in term-time you work hard and long hours, and in vacation you work shorter hours because there is not work to do?—Exactly, but having no work in the vacation, of course, affects our income. We get the rest, but it is rest we do not desire under those circumstances at all.

45,909. What is your position at present under the Superannuation Act? You get a gratuity, I think, on retirement?—From the Compassionate Fund.

45,910. That is under the Superannuation Act, 1887?—That is the only thing we have in the world. (*Mr. Apps.*) And that even is not right. That is only, I believe, as an act of grace. I have not any right to claim a penny after 40 years' service, as a matter of fact.

45,911. But as a matter of fact you do get one week's pay for every year of service?—(*Mr. Stewart.*) If you make application yourself for it, but if you are stricken down and cannot write or make application you get nothing.

45,912. Are you sure that that is the case?—I am positive.

45,913. Have you ever known a case of that?—Yes, I have. One of our writers came up to business one morning—he was a very old man—and was knocked down by a hansom cab and seriously injured; he was so bad that he could not write to claim, and he got nothing whatever.

45,914. In that case did the man die immediately?—He died afterwards—he did not survive very long; but he was not capable of making an application personally, and there was nothing got.

45,915. The point in that case was that no grant was made to his dependents?—No, it is not supposed to be for dependents; it must be for the man himself.

45,916. Are you aware that an Act was recently passed in 1914 modifying that?—No, I did not know that.

45,917. And allowing a grant of a week's pay for every year of service to be made to his dependents in case of the death of an employee?—No, I was not aware of that. And another thing is, that the allowance from the Compassionate Fund is based on the last three years of a man's earnings, and in the last three years he might not earn half as much as he did before, yet he only gets allowed one week's pay on the average of the last three years. There was one officer, a little while ago who, in the last three years of his life, earned 60*l.* less than before, but still the compassionate allowance was only based on that.

45,918. He gets one week's pay for each year of service, that being based on an average of the last three years?—Yes.

45,919. And you represent that the average of the last three years' earnings is probably less than the average of the earnings of the earlier part of his service?—Much less. (*Mr. Apps.*) It must of course be.

45,920. Is there any provident fund or pension fund existing of a voluntary nature?—We have a little fund

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of our own for sickness only, and each man contributes towards that; but that is merely a voluntary affair of our own. (*Mr. Apps.*) It is a purely private affair.

45,921. Has it ever been suggested that a pension fund should be created on a voluntary basis?—When we petitioned the Lord Chancellor four years ago a great deal of correspondence took place between the Lord Chancellor and the Treasury, and I have a letter here dated the 27th of August, 1910, from the then Secretary to the Treasury, Sir George Murray, I think, which I wish to read to show that they suggested a scheme which of course was simply an impossibility, so it never went any further. This is the point I wish to read. After apologising for delay in answering the Lord Chancellor's letter, the secretary says: "I am now directed to inform your lordship that there is no power under the Superannuation Acts to grant pension rights to the writers in question, either under a contributory scheme or otherwise. My lords are, therefore, unable to entertain any scheme of this character. They agree, however, with your lordship that it is very desirable that some provision should be made for the writers when, owing to age or ill health, they are no longer capable of performing their duties." Then after saying that they have no power to provide this they submit a scheme, which would of course be impossible, for the consideration of the Scrivenery Board. I do not think I will trouble you with what that is.

45,922. Perhaps you would hand in that letter?—By all means (*handing in the same*).

45,923. You say that the scheme suggested there was not practicable?—Not at all.

45,924. Was any alternative suggested by the writers?—I do not think anything at that time was suggested. We drew up a scheme amongst ourselves, but it seemed so impossible to do anything in the face of that letter, that the only alternative was to ask to be put on an established basis.

45,925. The scheme suggested there was that a fund should be formed by an annual deduction from the writers' earnings?—Yes, one of the first suggestions you find in that letter was that one pound monthly should be deducted from the earnings of a writer. That, of course, was utterly impossible. Whatever the man's earnings are, there is no guarantee that he would earn a pound a week under this present system at all in vacation.

45,926. As a matter of fact he does, on an average, earn 160*l.* a year?—Yes.

45,927. Why is it impossible that a pension fund should be formed by deductions? Those earnings are, I understand, higher than the earnings of writers in the outside profession—writers who work for outside stationers?—Yes, but we are hardly in the position of law stationers now; our work is so varied that you could scarcely say that we come under the heading of a law stationery department.

45,928. Before the Scrivenery Department was formed the work was performed by law stationers?—Some of it, but not all of it that we do.

45,929. Does the work done now differ materially from the work done at that time?—(*Mr. Stewart.*) Yes, certainly. At the present time all copies that we issue are certified by us as true copies, and they go to the court and to the judges straight from us. Before that time the law stationer made the copy, but that copy was examined before it went to the judge, or anyone else, by the officials or clerks in that department.

45,930. In other words, you have examination work as well as copying?—The law stationers merely copied, but we copy, examine, and certify as correct, and our copies are issued to the court and certified as correct copies. (*Mr. Apps.*) Those copies are certified by us and accepted in court as evidence. (*Mr. Stewart.*) The same as originals.

45,931. You claim that the work puts you on a different level from a writer working for a law stationer?—Certainly. (*Mr. Apps.*) Of course a lot of work has come into the department since the work was done by law stationers.

45,932. Are you paid separately for examining work?—Yes.

45,933. So that it is not additional to the work you are doing as copyists; it is separate work paid for separately?—Yes.

45,934. At reasonable rates?—Yes.

45,935. So that that does not make your position any worse?—No. (*Mr. Stewart.*) There are only a certain number who have that examination work; it is only a little staff of examiners who get it, it does not go over the whole body; it would be next to nothing if it did.

45,936. But what examining work there is you are separately paid for?—Certainly, but not on our own copying. (*Mr. Apps.*) It must be quite clear that the 1½*d.* per folio includes copying that document and examining that particular document; but there is a special staff of examiners for office copies, as we call them, that is copies made and brought in by a solicitor or by litigants to be examined with the original affidavit which is on the file. Those office copies are used in court as evidence and not the originals, and any inaccuracy (which sometimes, of course, does happen) on the part of the writer of the document he has examined, as you may know, causes a great deal of inconvenience; so that it is very necessary that those copies should be carefully examined.

45,937. Those documents have a separate examination?—Quite so.

45,938. Which is paid for separately?—Yes.

45,939. (*Bishop of Southwark.*) How is the examination work allotted; to whom is the examination given?—To the writers appointed in the Scrivenery Department; it is given to the senior—he would have to wait his turn.

45,940. It is given by seniority?—Yes.

45,941. (*Mr. Matheson.*) Is the payment for examining included in that average of 160*l.* a year?—Yes. (*Mr. Stewart.*) That is the total.

45,942. That is what brings up the average?—Yes. (*Mr. Apps.*) There is no complaint as to the payment of that work in any way. Years ago, of course, the examiners used to be far better off, because there was a great deal more examining, in fact almost double; there is not nearly so much now since the Judicature Act came into force. (*Mr. Stewart.*) In the last two or three years that has gone down tremendously.

45,943. (*Chairman.*) Is the main point on which you base your request to be pensionable, the permanence of the employment?—(*Mr. Apps.*) Yes.

45,944. We should like some information on that point. You say that at present there are about 50 writers?—I think so; I am not quite sure. (*Mr. Stewart.*) I think not now; we have two or three out at the front. (*Mr. Apps.*) But that would be just the same.

45,945. Have you any figures before you as to the period during which those writers have been employed continuously?—(*Mr. Stewart.*) We had one with 65 years of service, he is dead now; six with over 40 years, four over 30 years, and 14 over 20 years.

45,946. When a writer enters the department does he as a rule remain there permanently?—For his lifetime.

45,947. Cases are very rare in which men leave the department after they have once entered it?—(*Mr. Apps.*) Very rare, unless he leaves it for something better, but in the ordinary way of course he does not—he remains. That is our point.

45,948. How is a writer admitted to the department?—(*Mr. Stewart.*) At the present time he is appointed by the Scrivenery Board but in olden times he was appointed by the senior master.

45,949. In what manner do they make their selection?—At the present time they must be men who have served seven years in a law stationer's office, because they must be experienced men to do the work.

45,950. Are there many men anxious to enter the department?—I dare say there are.

45,951. A good many?—I expect so.

45,952. It is regarded as better employment than a law stationer's copying?—Well, I suppose it is.

45,953. And when they have once entered they very seldom leave?—They never leave unless, as Mr. Apps says, they get something better. We have

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had some leave for something better and some have been promoted into other departments from our body. We have had four or five at different times who have gone into other departments to assist, and they find them very useful so they have got them appointed as clerks. (Mr. Apps.) No one who had any influence at all would remain in the Scrivenery Department any longer than he could help, especially after a little experience of it; that is the point. There is no opening; there is no incentive to work for anything at all, and the first opportunity they have of getting a nomination for appointment they get out of it.

45,954. But as a matter of fact very few do leave?—That is so. We have had a good many accept appointments, but unless they have influence or it is some exceptional case, where a man has been asked to go into some other department as a writer, and in his new department he is found a capable man and is offered an appointment on certain terms, they do not leave. It is like this: If a writer has been in the department for a number of years and is earning, say, up to 150*l.* or 180*l.*, and then he is offered an appointment on the staff (there have been exceptions when they have been offered 150*l.*), if he accepts the appointment he would have to go as third class clerk who would start at 100*l.* a year, so that of course if a man is married and has got any responsibilities that is quite impossible for him to do. Some appointments have been made of men in the Scrivenery Department in which they have allowed them owing to their term of service in the department and on account, I presume, of the length of time they have been in the Service, to take it up at 150*l.* a year or 160*l.* to start with, to reach a maximum of 200*l.* by 10*l.* a year: but those I might say, if you like to use the term, are the lucky ones.

45,955. But apart from appointments to clerkships you do not find writers leave the Scrivenery Department for other work?—(Mr. Stewart.) Very seldom.

45,956. In the case of what I may call the outside profession, law stationer's writers, have they any pension fund or provident fund of any kind?—(Mr. Apps.) I do not know, personally I have no knowledge of any of the outside stationers at all. I should think probably they have.

45,957. Do you know of any such fund?—I believe there is a society called the Law Writers' Provident Society, but beyond that name I have no knowledge of it.

45,958. You have no knowledge of the working of it?—None whatever.

45,959. You have not inquired into it with a view to seeing whether any similar fund could be set up for the writers in the Scrivenery Department?—No, not recently. I believe, so far as I know, that for the last 30 years the writers in the Scrivenery Department have been trying to improve themselves; but no one seemed to take any interest in it, and they seemed to have gone on hoping and hoping that something would be done for them, and they are in the same position now as they were in then.

45,960. In fact, they hoped that the Government would provide pensions, and so no steps have been taken for setting up any voluntary scheme?—No; only just in a trivial private way amongst themselves. (Mr. Stewart.) It would be very awkward to start a provident fund for some of us. I myself am 65; how could I start? The young ones might start, but they are very few; we are mostly old servants. You cannot start a thing like that in middle life or old age; you have to start a thing like that when you are young.

45,961. (Bishop of Southwark.) Do you consider that the present arrangement impairs the efficiency of the work done?—(Mr. Apps.) No, I do not think that.

45,962. Perhaps I may put it the other way. Supposing you were regarded as permanent officials; would the work be better done?—No, I do not think that. There would, of course, be considerably less labour, because, owing to the peculiar nature of the Scrivenery Department, it would be impossible to carry it on as a salaried system with its present staff.

45,963. It would be very much more expensive, you mean?—It would be very much more expensive, of course. According to our figures, we say that in 1910

the Treasury made, roughly speaking, 2,500*l.* profit, less such charges for rent, etc.

45,964. (Chairman.) You state that as the net profit?—(Mr. Stewart.) After allowing for all the work we do. (Mr. Apps.) That was our figure that we made out in our department two years ago.

45,965. That is without allowing for what you may call standing charges, such as rent, lighting, and all charges of that kind?—Yes. (Mr. Stewart.) But we do all the official work—that is, work for all the departments besides.

45,966. Does the question of whether there is a profit or not really affect the matter? Would you go so far as to allege that the terms of payment or pension of public servants should be determined by the question whether the department in which they are employed makes a profit or not?—(Mr. Stewart.) No; it is only showing that we might have a case.

45,967. That principle would carry you a long way, in the Post Office, for instance, and would work somewhat unsatisfactorily for the employees in the case of departments that do not make a profit; so that it is perhaps unnecessary to go more deeply into that point of profit. Are there any other points that you wish to put forward as bearing on your request to be made pensionable, or have the answers you have given covered the ground?—(Mr. Apps.) We say, of course, not only that the cost of production realises a substantial profit to the Treasury, but that in justice that should be considered as a claim to bring us within the Pensions Act, 1859.

45,968. But you have admitted, in reply to the question I put to you, that the question of profit or loss in a public department has not any direct bearing on the terms of employment of the servants in that department?—I may be right or wrong, but I understand that no public department is supposed to make a profit. What I want to say in reply to his Lordship's question is, that so far as regards the profit which is made, we who produce the work that makes that profit receive no benefit at all from it.

45,969. Supposing the charges to the public were lowered, so that the Scrivenery Department did not work at a profit but at a loss, would you consider that a reason for reducing your pay?—I have not considered that point at all.

45,970. (Mr. Boutwood.) You said just now that if your department were put on an established basis it would be very much more expensive, and would want a larger staff. I do not quite follow what you had in your mind?—Well, you can understand in the ordinary way that if we were put on to salary we should only work the official hours, which are at present six; as it is we are working twelve; so that it would be very unreasonable to ask us to work for 12 hours and only be paid for six. I mean that unless a system of overtime were granted it would mean an increased staff, which of course would diminish the profit.

45,971. Let me put another alternative. Do you happen to know anything about the Money Order Office at the Post Office?—No, I do not.

45,972. I think I am right in saying that there they have an immense number of small documents to fill up; it is under an established staff, and there is some sort of an average system of daily or hourly average—a man has to do a certain number, and if it keeps him beyond the hour, well and good, he has to do it. Supposing something of that sort were done in the Scrivenery Department, leaving out of consideration the vacations which would make a complication in the details, would there be any difficulty in putting you on a permanent salary, and saying that a certain average amount of copying per week would have to be done?—I presume that that would have to be done in any case. I take it that the amount that would have to be done would be decided afterwards. But you see there would be great difficulty in that, because the nature of the copying varies to such an extent that one man, we will suppose, will have, perhaps, 60 or 70 folios all very hard work, and another man might have 60 or 70 folios which would be comparatively easy work, and he might be able to get through it between 10 and 4 without trouble.

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45,973. Would not that correct itself on a week's or fortnight's average?—It might. (*Mr. Stewart.*) I do not think so. Our work is a lot one day and less the next, it fluctuates very much. There is a lot of it all wanted at one time. (*Mr. Apps.*) In fact it has always been taken that our department is an exceptional department, and no doubt it is an exceptional department. Take the case of working on Sunday. It may be said that there is no necessity to work on Sunday. It is only those who have been in the department who know. It means this: In the ordinary way when any official or anyone leaves business on a Saturday he is clear until Monday morning. The work that is given to me or anyone else, unless it is marked urgent, you may say again is my Monday's work, and that is the work I will be engaged on on Monday, so that there is no necessity for me to work on Sunday, and in theory that is all very well, but in actual practice it does not work out like that. When I come on Monday morning if I had my work to do in the ordinary way it would be all right, but I find perhaps some very urgent case from the Court of Criminal Appeal or perhaps from the Official Solicitor's Office, dealing with some case of the release of a prisoner or something that is really urgent. I have either got to say "I am too busy, I cannot do it," or I have to take it. If I take it, and I have enough work to last me on Monday, it simply means that I am going to work up till 12 at night. If I were certain that I should have the exact amount of work the next day I should refuse it; but supposing I did do that I lose on the next day, because one cannot keep up that average rate of work every day; and then if I refuse it because I cannot do it, perhaps on the Tuesday I regret that I did not make the effort to do it, because perhaps there is very little or perhaps nothing to do—it may happen so. That is a case which really those in the department can understand—it happens again and again.

45,974. Then there is another point. You spoke of the nature of the work as being in many cases something quite different from plain copying. I do not know the details of it, but something occurred to me and perhaps you will tell me whether it is at all analogous to your case. I myself have a great deal to do with abstracting deeds, and I find that when I have a man working with me who has been at it for some years I can give him a curt and incomprehensible direction which I should be almost ashamed for anybody else to see, and he knows what I mean, and does the thing satisfactorily; but when, by some dispensation of Providence, he goes and I have a new man, I have to spend much more time on instructions. Is that something of the sort of thing you mean?—Yes.

45,975. (*Mr. Philip Snowden.*) I take it that you are wanting something more than a mere pension; you are not satisfied with your condition of employment as regards sick pay, and holidays, and the like?—That is so. This is our position now, and this is what we are being told time after time until we have got really sick of it: "So long as you are on this system of piecework we cannot help you; we admit that you have grievances to a great extent, but these grievances must go on for ever so long as you are on this system of piecework." Then our answer is: "Then put us on a salaried basis; make it a salary of 5s. a week, or 10s. a week, and let us earn it." "No," they say, "we cannot do that—we cannot help you." That is our position to-day and has been all along.

45,976. In short, I take it that what you want is that you should become an established class, with all the rights and privileges of permanent Civil servants?—Yes. If it be contended (although I do not admit it) by the authorities that this department cannot be carried on on any other system than the present one, owing to the peculiarity of the work and the formation of the department, then I say that we should have certain rights and privileges which we should get if we were on salary; and it cannot make any difference, if our grievances are admitted, whether we are paid piecework or whether we are paid a salary.

45,977. Is there any class analogous to yours in any other department of the courts?—No.

45,978. Are you the only people who are on piecework?—I do not know about the Law Courts, it is such

a large institution, and I do not know whether the Courts employ bookbinders and that sort of people, whether they are in Government service or not; but, so far as regards the clerical departments, we are the only one.

45,979. (*Chairman.*) You are not aware that there are writers in the Probate Registry who are paid by piecework?—Yes, but not in the Courts, I think.

45,980. In the Principal Probate Registry?—That would be at Somerset House.

45,981. (*Mr. Philip Snowden.*) Have you ever formulated a scheme for carrying your ideas into operation? For instance, if you were put upon a salaried basis, has it occurred to you that it would necessitate some change in the system of appointment?—Yes, we have considered so many schemes and submitted so many schemes that I could not at the present moment distinguish one from the other. I have got here a scheme that is quite among ourselves, showing what really could be done to meet our difficulty if the Treasury declined to put us on a salaried basis. We even suggested that to the Lord Chancellor at the time. I am not aware whether that actually did reach the Treasury. After our interview with the Lord Chancellor he promised to put these views before the Treasury, but whether he actually did so or not I am not in a position to say; but we said at that time that as nothing else could be done we were willing to provide 2½ per cent. towards a pension off our earnings if the Treasury would allow us 5 per cent., and so work it on a pension basis of that kind. With regard to holidays we suggested that we should be paid 9s. a day for a fortnight or three weeks, whichever was most agreeable, but nothing came of it, and nothing has come of anything we have ever proposed or ever done. I do not know whether this has any bearing, but I have here the question that was put in the House by Mr. Watt, "To ask the Secretary to the Treasury whether the clerks of the Scrivenery Department of the Royal Courts of Justice are all called by the Treasury temporary clerks, and are therefore given no pension rights; whether one of the clerks there employed has been for 65 years a temporary clerk; whether six clerks there employed have been temporary clerks for 40 years, and other 14 for over 20 years, while only 11 have been under 10 years in that department; and whether in these circumstances any legislation will be introduced to give permanent clerkships to that department." And I have the answer given by Mr. Masterman on the 17th July 1912, in which he said: "I am not aware that the Treasury has described the writers in the Scrivenery Department as temporary in the sense that their employment is necessarily or usually for short periods only. As the honourable member states, many of the writers have been employed for many years. This fact, however, does not constitute sufficient reason for changing the status of the writers to that of Civil servants with pension rights, and I can hold out no hope of legislation with that object." There was another crusher.

45,982. Are persons introduced into your department as writers sometimes for purely temporary service, supposing you have an exceptional pressure of work?—There have been cases, but in nine cases out of ten they all become permanent.

45,983. The staff of 50 of which you spoke is considered to be sufficient to deal with the average amount of work in the office?—Yes.

45,984. I find, taking the average salary of 160l., and taking the average earnings at 1s. 6d. an hour, that would average 41 hours a week all the year round for the 52 weeks of the year; that is something like the average number of hours worked by the permanent clerks of the Civil Service so that we may assume from that that there would be sufficient work in your department to keep a staff of 50 going for 41 hours a week?—Yes. My friend disagrees with me, I believe, about the number of writers being 50; but that was the number I thought. I could easily ascertain the number; I thought we were 50.

45,985. Now, supposing the Treasury should soften their hearts towards you and be prepared to consider some scheme of superannuation, do you claim that the

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whole of your past service should be taken into consideration?—(Mr. Stewart.) It would not be much good without. (Mr. Apps.) To the young ones it would not matter, but it would be rather hard on the old ones who have served a good many years in the department. It would hit me; I have served in the department 23 or 24 years. I take it that the Treasury would take that into consideration, inasmuch as when they give an appointment on the permanent staff they allow a man to start at 50% or 60% above the ordinary salary that he would enter the service at as a third class clerk.

45,986. Do you think that your rate of pay now is higher on account of the fact that you are not entitled to any of the privileges of permanent Civil servants?—(Mr. Stewart.) My rate of pay has been reduced 20 per cent. in the last 30 years.

45,987. That is not quite an answer to my question?—(Mr. Apps.) That question has arisen before. I believe the Treasury have an idea that we are well paid; but it has always been said that we could never be well paid at all while we are under this present system, and it would be very likely that they would suggest that if we were put on to a salary basis the salary would be smaller than what we are earning now. That would be manifestly unfair. Say, in my own case, unless I were offered a salary equivalent to what I am earning now, with the responsibilities that I have, it would be out of the question altogether; I should have to continue on my present lines.

45,988. But that difficulty could be obviated, could it not, by a smaller initial salary and a progressive scale?—Yes.

45,989. I understood you to say that a candidate must have had seven years' experience in a law stationer's office?—(Mr. Stewart.) They will not take him without that now; they want experienced men.

45,990. Then what is the age at which fresh writers come to your office?—(Mr. Apps.) Latterly the appointments have been to quite young men. I do not think there is really any age limit.

45,991. 22 or 23?—Yes, just about that.

45,992. Now a smart young fellow who had had a few years' experience in a law stationer's office will earn as much in the first year, say, as you are doing with your 26 years' service?—I have no knowledge. Personally I have never had any experience myself in a law stationer's office.

45,993. I think you do not understand my point. A writer coming into your department who had had experience of this kind of work would be able in the first year in your office to earn as much as you would 10 years later?—Yes.

45,994. Have you ever considered that if you are going to be put upon the establishment a salary of 160% a year at the beginning is a pretty big salary?—If that principle of salary were admitted that would not be asked for; there must be grades of salary. I take it that the question of starting at 160% for any man coming in would be quite out of the question altogether.

45,995. Would you therefore consider it to be a sufficient compensation for the advantages that you would gain by establishment if in, say, the first 10 years of your service you were earning a fairly considerable sum less than you are at the present time?—Yes.

45,996. I am not speaking of you personally; I mean the class?—Two appointments have recently been made from our department, and they could not possibly accept the ordinary third class clerk's salary of 100% a year; they accepted 160%. Of course, for the time being, those two men have lost by it, but they are quite willing to lose it because they have got something certain gained by it; in a few years they will get as much as they are earning now.

45,997. It might be very difficult for you to give an answer to this question straight off, therefore do not consider that you are absolutely committed by any answer that you might give; but supposing some such scale as this were proposed, say beginning at a salary of 100% a year and going by increments to a maximum of 160% with the ordinary Civil Service hours and con-

ditions, would you consider that to be an improvement upon the condition of things which exists at the present time?—So far as the young ones are concerned I dare say it would be. I take it you mean a maximum of 160%.

45,998. Yes?—I take it that the young men would consider it so because they would always be looking to the future, and the possibility of improving their position inasmuch as they were established.

45,999. Take your friend here; he says he is 65 years of age. If he had been in the established Civil Service he would now be at the age of retirement?—(Mr. Stewart.) Certainly.

46,000. Taking his average earnings at 150% a year he would have been entitled to superannuation of 100% a year. Would not that have been a very great improvement upon the precarious salary of 160%?—If we had had the opportunity it would; but of course I could not enter into anything like that; in the course of nature I cannot be many years at it.

46,001. You earn more than 160% now?—Yes.

46,002. Working about 12 hours a day you say?—Not every day; it is only in the busy time. As Mr. Apps has said, in the vacation we have very little to do, and we cannot average our work—there is a slack time and a busy time, and in the busy time we have to work very hard. We have plenty of slack time to recoup ourselves so to speak, but it is so many hours while it lasts.

46,003. Did you keep any record of your actual earnings last year?—I have to send in a return to the Revenue Department; my actual earnings, I think, were just over 200% for the three years' average, but of course I am thoroughly experienced. As I say, you must be experienced to do our work.

46,004. (Mr. Graham Wallas.) Have you ever attempted to get a position as scrivener for any relation or friend of your own?—Yes, for my son. At one time I have had two sons there.

46,005. What actual steps did you take to get it?—I have gone to my superintendent and through him to the Scrivenery Board since it has been established. Before that the master used to do it; the master attached to our department used to appoint the writers the same as I was appointed by the senior master.

46,006. Then you now go to the senior master or to whom?—Now it is the Scrivenery Board.

46,007. You do not appear before the Board; there must be some official that you go to?—You apply through the superintendent.

46,008. You go to the superintendent and ask him to put your son's name down on the list?—In my case I introduced my son to the superintendent, and showed his capabilities, and when my son was appointed he was appointed by the master.

46,009. What is the superintendent's name?—Mr. Stringer.

46,010. You have a good deal of leisure time in the Long Vacation, have you not?—Yes.

46,011. Do you do any work, during that leisure time, for law stationers?—No, there is nothing done in the law stationers; they are all slack the same as we are.

46,012. Do you yourself get any other work in the Long Vacation?—No, we do not attempt it, not to my knowledge.

46,013. Is there any work done in the office by a scrivener which is neither copying nor checking copy. I ask you in particular, does the work sometimes consist in counting folios?—There is a little of that, from the Court of Criminal Appeal, a small quantity; but the men who are almost incapacitated get it.

46,014. How much per 100 folios is paid for that?—I think it is 1s. 11d.

46,015. That is reserved, as you say, for men who are almost incapacitated?—Yes. We have one now, he has writer's cramp, and he cannot write. There are two or three who are almost incapacitated, and they get that work.

46,016. So that when the time comes that they are incapacitated from other work they are given this business of counting words?—Yes, when there is any, but there is not very much of it.

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46,017. (*Mr. Coward.*) You said that the qualification is service in a law stationer's business?—They consider that as a necessary qualification.

46,018. Do you never get recruits from solicitors' offices?—Yes; they must have a legal knowledge—that is the idea.

46,019. Probably they would have more legal knowledge than if they came from a law stationer's office?—They might do so if they had served long enough. I think we have one or two.

46,020. Where was your son, for instance?—He was with a barrister; he was junior clerk to Mr. Justice Kekewich.

46,021. Then he had no qualification of being either in a law stationer's or in a solicitor's office?—But he was very young; if they are brought in young that is as good a qualification as being in a law stationer's office, because the elder ones teach them their business.

46,022. The work that you do is the same as would be done by a solicitor's writing clerk—copying clerk?—(*Mr. Apps.*) Yes, but there is a lot of work that is done by the Scrivenery Department that comes under the head of the copying, and it is not copying—it is abstracting, that is to say, abstracting certain information from affidavits attached to deeds of assignment for publication, for Stubbs, Limited, I think it is called, but it is an official copy, and on this official copy they publish whatever extract is obtained from this affidavit, and if there happens to be, as sometimes has happened, but not very often, a little error, it falls entirely upon the man who does it.

46,023. I beg your pardon, but I asked you before, very distinctly, to be kind enough to tell me what it was that you claimed to be of such exceptional difficulty. When you talk about Stubbs, you mean, I suppose, the people who keep the list of people who have become bankrupt, insolvent, and so on?—Yes.

46,024. Their registry?—Yes.

46,025. What have you to do with that?—I am telling you. They require certain information from the documents which are filed in the Deeds of Arrangement Office.

46,026. That is to say, I suppose the amount of the man's debts and his assets and that kind of thing?—Exactly.

46,027. So that they may give some explanation of any information that they give?—Yes.

46,028. They give information to merchants, solicitors, or anybody who wants it.—Yes.

46,029. As to whether or not a certain person has been a bankrupt and what the result of his bankruptcy has been; that is the kind of thing?—That is the kind of thing that Stubbs do.

46,030. I dare say there is not much trouble in looking into the file of documents and seeing what that man has done, but all that kind of thing is work surely that one would expect any clerk in a solicitor's office to be able to do?—Yes, certainly.

46,031. Are you not better off in your Government office than you would be in either a law stationer's or a solicitor's office?—I do not think so.

46,032. Would you like to go down to a solicitor's office or to Waterlow's?—What, now?

46,033. Yes?—Not now.

46,034. I should have thought myself that you were very well off, subject always to your question of your pension?—But under our present system we only have what we earn; we have no rights, we have no sick pay, and no pension.

46,035. But I think I am right in saying, so far as I know, that in all solicitors' offices the writing clerks are paid not by piecework as you are, and you are paid for everything that you do?—That is so.

46,036. And a solicitor's clerk is not; he gets a salary, and he has to do what work he can or he should, during the time he is there?—Yes.

46,037. With regular hours, and some would allow overtime and some would not?—Yes, but it would be a very poor solicitor's office or insurance office that would practically turn a man away after 50 years' service with perhaps, say, 100%.

46,038. I was not talking about a pension. I especially excluded that. As far as work is concerned

the work you have to do is analogous to that done in a solicitor's office, and you get very well paid for it?—But we have never complained of our long hours, or of any work we have done; we are quite prepared to take what we may call the bad with the good.

46,039. Yours is about the only Government department that does piecework?—Yes, in the Royal Courts of Justice.

46,040. And, therefore, the Government perhaps rightly remunerate you upon a piece wage?—Yes.

46,041. Do you want to have something other than that? You are better off, I suggest, as you are, on a piece wage, even than you would be if you were paid a salary?—No, I should be worse off; the older I get the worse off I shall be; it is obvious that I cannot earn as much as I did even 10 years ago; and 10 years hence, let alone the question of ill health or sickness overtaking me, it is quite reasonable to suppose that I cannot earn as much as I do now. What we have asked for is that we should get some of the advantages and privileges, and we get nothing.

46,042. But you cannot have it both ways. If you are paid a piece wage, then, perhaps, you ought not to be given pensions?—Why?

46,043. Because your earnings are so much more than they would be?—I do not think it. If I were offered an appointment to-morrow I do not think they could offer me less than I am earning, could they?

46,044. I will tell you why—because, probably, you would succeed in taking the position of managing an office, something of that kind. I should be doing you no particular kindness if I were to say that I should think you were very competent to take control of an office, and then, of course, you would be remunerated at a higher rate than if you were doing copying; that is the point of it?—But supposing the Treasury hold that view now of the nature of our work, that it is well paid for, always assuming, of course, that the work is permanent, how is it possible for a man to make any provision, say, out of an income of 160*l.*, when perhaps he is a married man with several children?

46,045. You have made me think since you have been giving evidence to-day that I shall inquire from one of the insurance offices whether this is not practicable, because this scheme of giving pensions has been introduced, I do not know whether it is known, by all sorts of people at the universities and elsewhere?—We have had schemes submitted by different people, but that would not affect me at my age.

46,046. I suggest to you that you are better paid than you would be, doing the work that you do, in a solicitor's office or in a law stationer's office, because you are not in a position that you might be in if you were in a solicitor's office in command of the office, to see that the boys do their duty, and everybody else; you are merely a copying clerk?—And so, being that, as you put it, after serving, say, 41 years, I shall be turned away without anything at all, and the workhouse to face?

Yes, it is hard for you, but that is your position.

46,047. (*Sir John Kempe.*) As I understand it your position is practically a permanent position?—Yes.

46,048. Not secured, but a permanent position?—Yes.

46,049. You have got that advantage over the outside stationers' clerks; that is to say, a stationer's clerk has not any sort of permanency, he is merely employed for the job?—That is so.

46,050. What you want, in addition to that, is a pension; it is not the permanency so much as the right to pension?—(*Mr. Stewart.*) That is the principle.

46,051. And for that you are willing to sacrifice some of your earnings?—My earnings, impossible; because I am 65 already, and what pension could I get if I sacrificed some part of my earnings?

46,052. I mean your class?—There are three of us there with between 40 and 50 years' service.

46,053. But still you are willing to sacrifice for your class a considerable amount of your earnings in order to get a pension secured?—For other people?

46,054. Yes, for your class?—Personally I would not sacrifice some of my money to pay for the young ones.

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46,055. No, but you would be willing to reduce the emoluments of the class if you were paid a salary in order to secure a pension?—I should not like it myself.

46,056. How would you base your salary?—I should like to base my salary upon what I am earning now.

46,057. Upon your 12 hours' work a day or eight hours' work a day?—After serving all your life you do not want to have half your money taken away. In fact, in every other position in life throughout our building as they go on they get promotion and increased earnings, but we should be coming down. Why should we?

46,058. Have you calculated at all what a pension is worth? I heard Sir Francis Mowatt once say that the scale of the Civil Service pension is worth from 16 to 20 per cent. of your salary. Would you be prepared to accept that?—But that would not apply.

46,059. Not to you, but to your class?—I can hardly say. I should hardly think they would like to have that deduction from their money.

46,060. But you are asking for a pay practically equivalent to what you are earning now, plus a pension?—(Mr. Apps.) No; at the present moment we are simply putting our grievances before you and asking you to consider them. So far as regards any scheme, we did not come with that idea; that would be an afterthought. We are asking you to hear our grievances and to report upon them.

46,061. Is there not this further difficulty about putting scribes upon salary? I think you said that the work of a scrivener does not improve as he gets older; that a man necessarily gets less efficient; and you are asking to be put upon an increasing scale for work that is becoming less and less valuable, because it is mechanical work, and your powers must lessen as you get on in life?—Under the present system, as you can quite understand, as a man gets older he cannot earn as much; if he is paid by results he cannot do it, whether the work is mechanical or otherwise. A man might be a genius; he might be a most intelligent man; but, if his earnings depended upon his ability to do his work, it must follow, as a matter of fact, that his earnings will be less. Our point is this: our grievances have been admitted again and again; but, as I say, as long as we are on this system nothing ever is done for us, so that our case is hopeless in any case, and we have nothing but a blank wall facing us each way. They say: "We admit your grievance to a certain extent, but we cannot help it; it must go on." It is to remedy that that we have asked you to hear us.

46,062. There is one question I put to you earlier on which I think I may have misunderstood you. I understood you to say with regard to your payment per folio that the folio does not represent mere copying; it represents, first of all, making a draft from rough notes, so to speak, and then copying that draft. What I asked you was, "Then are there two payments made, payment per folio, and also payment for the rough draft"?—Yes, there is a separate payment for that.

46,063. How is that paid, at the same rate per folio?—No, that is less in this way, because there is an element of luck in it. Supposing, in one particular case, there was only one copy to be done of that particular thing, drafting from this, that, and half a dozen documents, that would not really, strictly speaking, pay a man, he would waste so much time over it that if he had only one draft to do it would be heart-breaking work; but, inasmuch as in eight cases out of ten there is more than one copy of it, that makes up for the labour he has to expend on the first document. That is why it is lower. That is a matter of luck, if he is lucky enough to have three or four drafts. That is the system we complain of, a kind of haphazard business; you never know what you will earn.

46,064. (Mr. Shipley.) The only question I want to ask you is whether you have any complaints about the conditions under which you have to work, whether the rooms are well-lighted and well-ventilated, and so forth?—We have no complaint to make about that.

46,065. (Mr. Matheson.) Do you take any definite holiday?—That is another grievance; we take a holiday

but we pay for it out of our own pocket. If I am away it is arranged with the management that I shall take three weeks and others shall take three weeks, but we get nothing for it.

46,066. It is done by arrangement?—Yes, and it is compulsory, that is the objectionable part of it. Supposing I do not want to take three weeks—in fact I cannot afford it—I am compelled to take three weeks and they claim that, owing to the vacation, I do not lose any more by taking my three weeks than if I stayed here. That is another case of theory and practice.

46,067. I do not want to dwell on that. Supposing you were put on a salaried system it is clear from what you have said that a larger staff would be required?—Yes.

46,068. Would not that create very considerable difficulty; you would have a larger staff hanging about during the vacation with very little to do for certain times in the year?—When I say that a larger staff would be required, I know the Treasury dislike overtime and I am only assuming that they would not allow overtime. If a certain amount of overtime was allowed that difficulty would be got over. You see, we have never been asked to consider any question at all such as you were speaking of, how can the department be worked on a salaried basis. If they would say they would give us a retaining fee and allow us 1*l.* a week, and anything over that we shall earn in the same way, we could consider it.

46,069. You have no scheme in fact?—No, not actually before us.

46,070. (Bishop of Southwark.) There is only one further question I want to ask you. Is the impression I have received correct that as a man gets older he is able to do either less good work or less work than when he was young?—You cannot work so hard at sixty as you could at thirty.

46,071. But then that is simply a question of the amount that is done?—Yes.

46,072. Not of the quality of the work?—No; sometimes, of course, it happens that some consideration is shown in the case of mere counting to a man who is incapacitated or suffering from paralysis; but that is all haphazard; there is no arrangement; he cannot count upon it.

46,073. Would there not be a difficulty about constructing a scheme of increments for lengthened service, on a salaried system, for people whose work deteriorated or was less in quantity as time went on?—I do not see any particular difficulty in working the department, even now, on a salaried system.

46,074. Would you suggest that supposing they had fixed hours, from 10 to 4, the work would be just as good at the end of 20 years or even better than it was when they first entered the establishment?—It is quite clear of course that they would not work so hard on a system of salary from 10 to 4 as they do now. They would be better in every way; they would have more time for recreation and that kind of thing. As it is now there is no time for anything but work.

46,075. That is to say, you only judge of the efficiency of the work that a man does now by the amount that he can get through?—Exactly. He might be a brilliant man but it does not count at all.

46,076. (Chairman.) You mentioned that a scheme had been suggested, at one time, of a contributory pension arrangement under which 2½ per cent. of the earnings would be contributed as against 5 per cent. contributed by the Treasury. Was that scheme actually put forward by the writers?—It was put forward as I said at the time, but I am not sure whether that suggestion was put before the Treasury. A deputation waited upon Lord Loreburn when he was Lord Chancellor, and he promised that he would submit our scheme, but whether he did or not I have no knowledge.

46,077. At what date was that?—That was in 1911.

46,078. That was after the Treasury letter that you have handed in of the 27th August 1910?—Yes.

46,079. In fact it was in response to the suggestion of that letter that a contributory scheme should be

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devised?—Yes, of course we have been working on all kinds of schemes, off and on, to get some idea of a suggestion.

46,080. That scheme was put forward in response to

the suggestion in the Treasury letter of the 27th of August 1910?—Yes.

46,081. That is the only contributory scheme which has so far been put forward by the writers?—Yes.

Mr. L. McMULLEN and Mr. H. E. BOURDELLOT, Writers, Scrivenery Department, Principal Probate Registry, called and examined.

46,082. (*Chairman.*) (*To Mr. McMullen.*) You two gentlemen appear on behalf of the scrivenery staff of the principal Probate Registry?—That is so.

46,083. How many members does that staff comprise?—25 in all, including the superintendent and an assistant. 20 of those are temporary men; it is the temporary men whom we represent.

46,084. The work may be divided into the two main classes of examining and copying?—That is correct.

46,085. Before 1894 the work both of examining and copying was done by an established staff?—That is so.

46,086. And they were paid, some of them, by salary and some by piecework rates?—Yes.

46,087. The examining staff by salary and the copying staff by piecework rates?—That is correct.

46,088. But both staffs were pensionable?—Yes.

46,089. In the case of those who were paid by piecework, that is to say, the copyists, was the basis for pension the average earnings of the last three years' service?—(*Mr. Bourdelot.*) That is so.

46,090. And in 1894 the office was reorganised and a change made?—Yes, when typewriting was introduced.

46,091. When typewriting was introduced, what was done with the existing pensionable staff?—(*Mr. McMullen.*) The examiners and readers were then distributed in different departments in the office, and the pensionable copyists were employed, some on the examining work, and others learned typewriting and took up the typewriting work and continued as pensionable; all were compensated officers.

46,092. And all further appointments both for examining and copying work were unestablished?—Yes.

46,093. A piecework rate was at that time introduced for examining?—Yes.

46,094. What was the piecework rate?—4s. 10d. per 100 folios of 90 words.

46,095. That is the pay of both readers and examiners?—Yes, 4s. 10d. between them.

46,096. Was there any stipulation as to the amount of work to be done?—A stipulated amount was required of 2,000 folios a week.

46,097. Was that the maximum or the minimum?—It fluctuates owing to the nature of the work which is current, and consequently we were allowed occasionally to do an extra 100 or possibly an extra 200 folios a week.

46,098. Was that to make up for other weeks in which there were not 2,000 folios available?—There are always 2,000 folios available, but occasionally, owing to current work, there would be a little more; 2,000 was therefore the minimum.

46,099. It was the minimum and the standard, but a standard that might be exceeded when there was pressure of work; was that the position?—Yes.

46,100. At that rate of 2,000 folios per week, what earnings does that represent?—2l. 8s. 4d. per man per week.

46,101. Then what was the piecework rate that was introduced for typewriting?—A penny a folio of 90 words.

46,102. In some cases of difficulty, where the records are difficult to follow, is that rate increased?—Yes, in the case of records which are over 200 years old, the rate of pay then being 2d. per folio.

46,103. (*Mr. Coward.*) That was for engrossing it?—Typewriting.

46,104. But from the engrossing?—In some cases.

46,105. (*Chairman.*) Old wills in difficult handwritings?—And in some cases from the Latin.

46,106. Is there any standard of the amount of work in the case of the copying work?—That comes under the same regulation as the examining, inasmuch

as a large amount of it is of a current nature. That also fluctuates.

46,107. Is there any maximum or any minimum?—Not fixed.

46,108. Is there not a maximum of the amount that may be earned in a year?—No.

46,109. Can you give the Commission any information as to the actual earnings or average earnings?—The average earnings of examiners are, as I mentioned before, 2l. 8s. 4d., and for copyists say 3l. 12s. per week per man.

46,110. So that the copying work is more remunerative than the examining?—Distinctly.

46,111. But it is harder work, I suppose?—Certainly.

46,112. Do the individual earnings vary much above or below that average?—Very little indeed.

46,113. That is a fairly steady average?—Yes.

46,114. The greater part of the work is done in typewriting?—The greater part.

46,115. But part is still done in handwriting?—Yes, exemplification work.

46,116. Will you explain what exemplification work is?—An exemplification consists of the probate which is granted to persons who have estates situated abroad. The exemplification is sent abroad and takes in that country the same position as the probate would take in this country.

46,117. It is in fact an official copy of the will?—Yes, including details of the granting of probate in this country.

46,118. That is done in handwriting?—That is what we refer to as exemplification or the exemplifying of probate in this country.

46,119. Is the engrossment of wills in the Personal Application Department done in handwriting?—Yes.

46,120. So that there is a substantial amount of work done in handwriting still?—Sufficient to keep my colleague and myself employed; there are just two of us who can cope with the work.

46,121. What is the rate of payment for that work?—2d. per folio all round.

46,122. How do the earnings for that work compare with the earnings for typewriting?—Practically the same.

46,123. One may infer from that that typewriting is twice as quick as handwriting?—Yes.

46,124. Can you give us any information as regards the hours that you work to earn the sums you have mentioned?—The regulation hours are from 9 until 6, but the majority of our men work from about 9.30 to 5.30 every day, with the exception of Saturday, when some go at 2, some at 3, and possibly some stay until 4.

46,125. That is to say, eight hours on an ordinary day and six or seven hours on Saturday?—Yes.

46,126. With an interval for luncheon, I suppose?—With a discretionary interval; we may take it or not, as we please.

46,127. But in fact is it taken?—In fact it is taken generally.

46,128. In the vacation are the hours shorter?—As regards our staff there is no difference.

46,129. The work goes on fairly regularly?—Fairly regularly.

46,130. Is there any arrangement for taking holiday?—There is no definite arrangement; that also is left to our discretion.

46,131. Each individual can take holiday as he wishes?—Yes.

46,132. As a matter of fact, do most writers take holiday?—The majority do.

46,133. What you wish to represent to the Commission is that you desire to be made pensionable; is that the main point of your representation?—That is the main point.

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[Continued.]

46,134. Has the question of pension been raised before?—We have never got any satisfactory reply to our numerous interviews and petitions to the Treasury and also to our President; in fact, there has been no definite reason given as to why we should not be granted a pension.

46,135. You have applied?—We have applied on many occasions.

46,136. On what do you base your request to be made pensionable?—Principally on the permanency of the work upon which we are employed.

46,137. As a matter of fact, are the writers all employed continuously for long periods?—Yes.

46,138. You have no cases of men entering for a short time and then leaving again?—No.

46,139. All the writers who are there at present have been there continuously for some time?—Yes.

46,140. If fresh writers are required how are they appointed?—I believe that the superintendent of our department has a list of likely men probably suggested by other men in the department, but as I have no distinct evidence as to that point I can merely say I believe that is the case.

46,141. The department is superintended by a second class clerk assisted by a third class clerk?—Yes.

46,142. They arrange the distribution of the work?—Yes.

46,143. And they keep the accounts for payment?—Yes.

46,144. Have they any other duties?—They have duties connected with the public; the room is open to the public, and they deal with the public.

46,145. Members of the public or of the legal profession who come to get copies of documents?—Yes. They deal with the Probate engrossments, but not the ordinary copies. This is done through the Copying Department.

46,146. Have you any opportunity of being appointed to clerkships?—Yes; there is an opportunity, but the particulars as to that opportunity we are not in possession of. When the opportunity was given us, it arose out of either our interviews with the President of the Division or the result of representations on our behalf by our Senior Registrar; as to that we do not know. We were told, however, in 1910, that "Vacancies in the third class caused by retirement of the old copying clerks, 10 in number, may be filled by selection from the clerks in the Scrivenery Department on the understanding that service as copyists previous to the appointment of third class clerk will not count for pension."

46,147. That is to say, 10 of the old class of established copying clerks were appointed to third class clerkships, and you were told that vacancies among those 10 may be filled by appointment from the present copyists?—Yes.

46,148. That is, I suppose, if there are qualified men among them?—I do not know that the question of qualification has arisen.

46,149. What is the date of that statement that you have read?—The 8th of January 1910.

46,150. Has any appointment been made since that date?—Two appointments have been made subsequently.

46,151. At what initial salary were they appointed to third class clerkships?—They drop an eighth of their existing salary as pieceworkers, and then rise by annual increments of 10% to 200%, when they stop, further promotion to the second class being barred.

46,152. They begin at a point arrived at by taking their average earnings for the last three years and deducting one-eighth?—Yes.

46,153. And then they rise by the ordinary increments of the class, but are not eligible for promotion beyond the third class?—That is so.

46,154. Has any suggestion ever been made for a voluntary and contributory pension system?—No.

46,155. That point has not been considered?—No.

46,156. Are you prepared to express an opinion as to whether such a system would be practicable?—We have drawn up a scheme which we suggest, but certainly not on a contributory basis. If you care to hear it I will read it to you.

46,157. Will you be good enough to read it?—The suggested scheme is this: The whole of the scrivenery staff to be placed upon a permanent pensionable basis. Past service to count towards the pension—that is a strong point. The examiners should be put on at 150% and rise by annual increments of 5% to 180%. They would be required to cope with the current work and to keep the registering (that is, copying into books) as much up-to-date as the superintendent considered necessary. As to the copyists, they would be on a piecework basis as at present, with an allowance for 21 days of the year, with pay at the individual average, for holidays or sickness. That is our suggested scheme.

46,158. In fact you propose to retain your present piecework rates, to be given fixed holidays, and to be made pensionable?—Yes.

46,159. Would you be prepared to consider a pension system on a contributory basis?—I think we would be prepared to consider anything that would tend to benefit our position.

46,160. Do you consider that your rate of remuneration is higher than the rate of remuneration for similar work in the general market?—No, we think it is not.

46,161. Do you think that a typewriter doing copying work in the general market would earn an average of 181% a year?—We think a man employed on a piecework basis outside could easily do it.

46,162. Have you any facts in support of that opinion?—I am afraid we have not.

46,163. At present the staff is not an old staff, because the present system was only instituted in 1894?—That is so.

46,164. What is the age of the oldest member of the present staff?—Fifty-eight.

46,165. Is he an examiner?—Yes.

46,166. What is his length of service?—About 10 years.

46,167. So that he came in at the age of 48?—Yes.

46,168. What had been his employment before?—A barrister's clerk.

46,169. And among the copyist staff what is the greatest age?—Forty-nine.

46,170. And length of service?—Just over 20 years.

46,171. So he was appointed at the age of 29?—Yes.

46,172. (*Mr. Graham Wallas.*) What steps are in fact taken by candidates to enter into your work; whom do they apply to?—The superintendent of the department would be the man to apply to.

46,173. He is a second class clerk?—He is.

46,174. Does he keep a list of persons applying for appointment?—We believe that is so, but I cannot say.

46,175. Do you understand that the appointments are in his absolute discretion?—Practically we believe that is so.

46,176. (*Mr. Philip Snowden.*) What is the difference between your work and the work of third class clerks; what kind of work are they engaged upon?—The third class clerks in the Probate Registry are engaged on various kinds of work; it is rather difficult to enumerate them all.

46,177. Apart from those who have been promoted would they mainly be men who entered by some open competitive examination?—No, by nomination and a qualifying examination.

46,178. The average earnings of your class you say are about 3% 12s. a week?—That is so.

46,179. What is the average number of hours a day that a copyist works?—About eight hours.

46,180. How many folios an hour can you do?—(*Mr. Bourdelot.*) It varies with the class of work. If I am copying old records necessarily the pace is very slow.

46,181. (*Chairman.*) That is paid at special rates?—Yes, but with ordinary straightforward copying I should say 30 folios an hour.

46,182. (*Mr. Coward.*) That is typing?—Yes.

46,183. (*Mr. Philip Snowden.*) Is all the copying done by typewriting?—With the exception of the Personal Application Department work and exemplifications; that is hand-written.

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[Continued.]

46,184. Do you know whether the department has ever considered the question of employing women to do this work?—There are two women in our department already; they have been there some 35 years, I believe.

46,185. Are they typists?—Yes.

46,186. Are they doing the same kind of work that you do?—The same kind of work on the machine; that is the registration of wills only. They do not touch divorce matter or other work outside registering.

46,187. (*Chairman.*) Are they paid by piecework or a salary?—They are paid salaries and they are pensionable.

46,188. (*Mr. Philip Snowden.*) I take it from what you said about the conditions under which your class may be promoted to the rank of third class clerk there is no very great monetary gain in the promotion?—There is no financial gain whatever.

46,189. Then what induced them to accept the promotion?—The prospects of a pension, the release from typing, and, of course, holiday leave, which, if we take now, when we return it means probably only a fortnight's money to take, which is rather a big drag on a married man.

46,190. Have you ever got to the office when you were told there was no work for you to do that day?—No.

Mr. ALFRED MUSGRAVE, recalled and further examined.

46,198. (*Chairman.*) I think there is a point in the evidence you gave us the other day on which you wish to make a further explanation, and that is with regard to the number of taxations?—Yes. On looking at the the statistics again, I find that the number of bills taxed, set out as a little over 100, is simply the Probate bills. About three pages farther on you will find the return of the Divorce bills, which are rather over 500, making altogether an average of over 600 bills.

46,199. About 600 bills in the course of the year?—Yes.

46,200. Then you were going to consider further a point which arose in the course of your evidence, namely, whether there was any objection to employing typewriting for the engrossment of wills presented in the Personal Application Department?—I think both the engrossments in the Personal Application Department and the Exemplifications, which are now both done in manuscript, might be typed. I think the reason why manuscript was continued when the typing was first started was because we had a number of old registering clerks employed (who have now been got rid of), and it was thought reasonable to keep that work to employ those old clerks.

46,201. The cost of typing is half the cost of manuscript?—No; I think it is 1½d. instead of 2d. per folio, if it is treated as the higher class of copying.

46,202. But the ordinary typed copying costs 1d. per folio?—Yes.

46,203. Is not this ordinary copying? It is not a higher class of copying; it is like the registered copies of wills?—Exemplifications are different; they have a sort of heading set out in a special form.

46,204. But the engrossments of wills in the Personal Application Department would be precisely the same type of copying as the registered wills?—They would be very much the same. There, again, there is the question of folding and arranging; there will be a little extra work attaching to it, and as to the exact rates at which it should be paid, it should be considered whether there should be a slight addition to the 1d.

46,205. At the end of your evidence the other day we were dealing with the question of the district registries, and you mentioned that all the salaries in the district registries are fixed salaries?—Yes; fixed salaries.

46,206. How are they fixed?—They were fixed, I think, in 1866 originally by the judge for the time being and the Treasury.

46,207. Are they revised from time to time?—Not the salaries of the district registrars. They have been slightly varied; for instance, in Manchester where they

46,191. There is always sufficient work for you to do?—Yes.

46,192. (*Mr. Boutwood.*) I think in that scheme that you propounded just now the examiners were to be put on a salary but the copyists were to remain on piecework; did I gather that correctly?—That is right.

46,193. Do I also rightly understand that your average does not vary very much; it is fairly steady throughout?—It is fairly steady throughout.

46,194. Then why cannot you also come on to a salary; why have you still written yourselves down at piecework rates?—The nature of the work prevents our suggesting a scheme.

46,195. Will you explain that?—The department of copyists downstairs have current work; we have upstairs all the registering work that has to be recorded for the use of the public.

46,196. I do not quite see the bearing of that on the question of salary or piecework?—(*Mr. McMullen.*) I should explain that the inability to put the copyist on a salaried basis is mainly due to the fact that the department are afraid that if they did so they would lose the entire control over what the copyists turn out.

46,197. Could they not have some system of average as a sort of check upon them?—We think they could, but they think not.

are joint High Court and Probate registrars a special arrangement was made, but the separate salaries of the district registrars have not been altered at all.

46,208. They appear to vary from a maximum of 1,200l. to a minimum of 200l. Is that correct?—I think that is quite correct. I think Chichester is the smallest, and that is 200l.

46,209. You said you were of opinion that some of the smaller registries could with advantage be merged in the larger registries?—I said I thought it might be possible. I have not worked out any scheme.

46,210. At present the position of the registries does not in any way correspond to the importance of the places where they are situated?—No, not always.

46,211. Taking the case of Staffordshire, for instance, the registry is situated at Lichfield with a population of 8,000; whereas Stoke-on-Trent has a population approaching a quarter of a million?—They have remained in the ecclesiastical towns.

46,212. Which in many cases are quite different now from the principal centres of population?—Yes.

46,213. Taking the case of Wales again, in Wales are there four registries—Bangor, Carnarvon, St. Asaph, and Llandaff?—Yes.

46,214. And those are small places with a population in no case exceeding 11,000?—That may be so. I do not know exactly.

46,215. Whereas Cardiff has a population of over 180,000, and Swansea over 110,000?—Yes.

46,216. So that the situation of the registries does not at all correspond with the principal centres of population?—Certainly not.

46,217. They would not be the centres that would be chosen if registries had to be set up for the first time to-day?—No, I think not.

46,218. From that point of view some re-adjustment would have advantages?—I think if it was proposed to have a smaller number of registries, you might rearrange them in more important towns.

46,219. You mentioned that in some cases the clerks from the principal registry are appointed to district registrarships?—Yes.

46,220. Do you consider that that is the most desirable source from which to appoint district registrars?—I think it is. It has worked very well in all cases where they have been appointed.

46,221. Have recent appointments been made from the principal registry?—Some.

46,222. But not all?—Not all.

46,223. In other cases who were appointed?—Solicitors and, I think, one or two barristers, but mostly solicitors.

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[Continued.]

46,224. Would they be local solicitors?—Sometimes, not always.

46,225. Do you consider it desirable that the appointment should be held by a local solicitor?—I think the appointment of a clerk from the principal registry is more desirable.

46,226. The experience in the principal registry would enable him to perform the work satisfactorily?—It keeps the work more uniform, and also in the case of local solicitors, I do not say necessarily, but sometimes they do not get on so well with all the profession in the same locality.

46,227. In the case of many of these registries the work cannot occupy anything like the whole time of the registrars?—In the smaller ones, certainly not.

46,228. In the smaller ones the number of grants is very limited. Is it the case that at Chichester, for instance, the number of grants is only 226 a year?—It would be under 300. I do not know the exact number.

46,229. That is to say, less than one a day?—It is about one a day.

46,230. Obviously that cannot anything like occupy a man's whole time?—No, I should say not.

46,231. So that if it is a local solicitor who holds the appointment it would be a subsidiary part of his work, his main work being his ordinary practice as a solicitor?—That would be so.

46,232. Do you consider that that might be undesirable in any respect?—In recent cases where the President has appointed a solicitor, he has always made the appointment on the understanding that he did not practice as a solicitor.

46,233. Are solicitors found to accept the smaller registrarships on those terms?—They have not been appointed to the smaller ones. There has not been a vacancy in a smaller one lately.

46,234. That would apply to the larger ones where the salary is more substantial?—Larger than Chichester.

46,235. On the whole you think the best system is to appoint clerks from the principal registry?—I think so.

46,236. That would no doubt be preferred by the clerks in the principal registry?—It relieves the grievance on the question of slow promotion, and it has the great advantage of uniformity of practice—keeping it the same as it is in London.

46,237. A suggestion has been made that if the smaller registries were abolished or merged in the larger registries, the convenience of the public might be served by having probate agents at the smaller places, that is to say, agents who would not make the grants or have the custody of wills or anything of that sort, but who would assist in the preparation of the necessary documents and would pass them on to one of the other registries or to the principal registry. Have you considered the possibility of a system of that kind?—I have just seen the statement which has been forwarded, but it does not seem to me to be feasible. I do not see how it could be carried out very well.

46,238. At present the Inland Revenue officers perform functions of that kind?—They receive papers from applicants and forward them to the registry.

46,239. Do they give any assistance in the preparation of the papers?—In simple cases, I think; they get all the details and forward them either to the district registry or to the Personal Application Department in London, for the papers to be filled up, and, of course, they give assistance with regard to the Inland Revenue affidavit because with that they are well acquainted.

46,240. I see that some 5,000 cases a year are forwarded to the district registries by the Inland Revenue officers, so that a substantial number of applications are presented in that way?—Yes.

46,241. Do a substantial number come in the same way to the principal registry?—I have not got the figures. I do not think they are quite so many.

46,242. The figure for the principal registry would appear also to be somewhat over 5,000?—I thought it would have been rather less.

46,243. Do you consider that the Inland Revenue officers do all that is required in that respect, or would there be any advantage in having agents appointed other than the Inland Revenue officers to do it?—I do not

quite see how the plan proposed would work, because apparently there has to be no office, and it contemplates everything being done by correspondence. To make it useful you would have to appoint a very large number of agents.

46,244. The Inland Revenue officer who at present forwards applications has no office for the purpose?—He has the Inland Revenue office.

46,245. All that he does is to forward the applications. I suppose he has no correspondence about it?—He only has correspondence with the registry.

46,246. If the registry requires further papers, or some correction of the papers, does it then communicate with the applicants through the Inland Revenue officer, or direct?—They communicate, first of all, through the Inland Revenue officer; but if it is a case about which there is a great deal of difficulty, it is taken out of the hands of the Inland Revenue officer and referred to the registry.

46,247. Is the case then dealt with by correspondence or personal interview?—Then the applicant would either have to go to the registry, or instruct some solicitor.

46,248. Then, are you of opinion that all that is required for the receipt of applications from the public at places where there is not a registry, can be satisfactorily done by the Inland Revenue officer?—I think so, because that only applies in rather poor cases. If they are cases of large estates they would employ a solicitor or agent, and would not want the Inland Revenue officer. It is only to meet the difficulty of cases where they are poor persons.

46,249. If the smaller registries were abolished, do you consider the inland revenue officers at those places could do all that is required in the way of receiving personal applications without the appointment of an agent?—As it is now there are several places in the district where they are some way from the registry, and they have to go to the nearest Inland Revenue officer. It would be only a change of locality for the registry. The people in the new town would gain, and the others would lose a little bit.

46,250. You do not see any necessity for the appointment of agents other than the Inland Revenue officers?—I do not see the necessity, and I do not think it would work as has been suggested.

46,251. Are the ancient records of each registry kept at the district registry?—Yes.

46,252. In your opinion, is that a satisfactory system?—I think so. There are several county record societies, and they like to have the original documents in their own county.

46,253. On the question of safety, are you satisfied that the local registries are sufficiently secure against fire and other accidents?—Some have very good strong-rooms, and there are some cases where they are not very good. I think on that point you ought to hear the district registrars, because I do not know every registry and the exact particulars of the strong-room.

46,254. Does the principal registry take any responsibility for that, and inspect the custody of documents at the local registries?—The safety of the strong-room is a matter between the district registry and the Office of Works. The Office of Works report, and we see the Office of Works with regard to any question of the safety of documents.

46,255. In the case of the ancient records which are kept at the local registries, are duplicates kept at Somerset House?—We have not got duplicates of wills before the Court was established. We have copies of every will proved since the Court was established in 1857, but we have not got copies of the older documents.

46,256. When we visited the Probate Registry yesterday, we saw a number of ancient records from district registries. Were those the records of probate?—You saw copies of wills.

46,257. We saw bound volumes containing, I think, in some cases copies of wills and in some cases records of probate having been granted?—We have copies of the records of every grant that is made in the district registries.

46,258. Including the more ancient grants?—No, not before 1857.

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46,259. Then what were those ancient documents we saw at the registry?—Those were old documents from the Prerogative Court. When the Probate Court was established the old records were forwarded from the Ecclesiastical Registries in pursuance of requisitions issued under the Court of Probate Act, and a great many were sent to the principal registry—all those from the Prerogative Court of Canterbury and the Commissary's Court of London. But the requisitions required the local courts to send them to the district registries except in certain cases. We have a number of wills sent from the manorial courts up to London.

46,260. Were all the documents of the Prerogative Court of Canterbury sent to Somerset House?—Yes.

46,261. Then probably most of these documents of which I speak were the documents that came from the Prerogative Court of Canterbury?—Yes.

46,262. Are you satisfied that your supervision of the custody of records in local registries is sufficient and effectual?—I think they are very well kept. There are no doubt some cases of masses of papers—not wills so much—that have not been properly arranged even now. In a great many cases they were transferred from the old registries without being sent in any order at all—simply cases of papers without any arrangement.

46,263. In any case where the arrangements are not satisfactory, whose business would it be to require steps to be taken?—Special arrangements were made to see that all the original wills were arranged in order and indices made, and they are being made now in some of the older cases. The clerks have worked back from 1857.

46,264. Whose is the ultimate responsibility? Is it the President of the division?—Any question of the arrangement of documents would be sent from the district registrar first of all to the senior registrar, and then it would be reported to the President, and any arrangement with regard to their classification, so far as the work of the registry permits, would be under his direction.

46,265. The senior registrar can give directions to the district probate registrars?—In some of those cases it would be a question of extra work. They have not time to undertake a very large work of that kind without some extra remuneration, and then an application has to be made to the Treasury upon the recommendation of the President, which has been done in many cases formerly, not recently so much, because most of the wills and original documents of that kind have been arranged now.

46,266. But are they under the orders of the principal registry?—The documents are in the custody of the district registrars, but it is subject to the directions given from the principal registry.

46,267. The principal registry can and does give directions to the district registrar?—Yes.

46,268. Is there any power of removal of a district registrar?—No, I think not. I think they hold office during good behaviour.

46,269. But if there was a question of removal, a case where the good behaviour requirement was not fulfilled, would it in that case be the President who would act?—In that case I do not know what procedure would have to be taken.

46,270. Are the district registrars pensionable?—A few of them now have been recognised as being entitled to pension, but as a class they are not.

46,271. Because they are not whole-time officers?—Yes, for that reason; and there are some who have been appointed to special places at special salaries, and they have been held to be pensionable on the ground of giving their whole time. The clerks from the principal registry who have been appointed district registrars are entitled under the Superannuation Act, 1859, to claim a pension on their old salary.

46,272. As regards the clerks to district registrars, are they also paid by fixed salaries?—They are paid by salaries which are fixed, but not absolutely fixed, because the arrangement with regard to the salaries of clerks depends upon the number of grants that issue in the registry.

46,273. Were those scales fixed by what is known as Lord Penzance's Scheme?—That has been used as a guide in arranging the salaries.

46,274. Under that scheme the number of clerks and their salaries depend on the number of grants passing the registry?—That is so. It is intended to be a guide in fixing the salaries. It never was actually assented to by the Treasury, but it has been used as a guide.

46,275. In registries passing under 300 grants a year two clerks are employed?—Two clerks.

46,276. Is there work for two clerks?—I should think so, because although there are not a very large number of grants, it includes doing everything with regard to the matter; they have to do all the copying work, they have no copying clerk, and they have to register the documents. They have to do a number of different things.

46,277. Is it possible that where there is one grant a day there is enough work to employ part of the time of a registrar and the whole time of two clerks?—Whether the whole time of two clerks would be engaged, I could not say; but there are a number of little odds and ends of work which have to be done in passing the grant, which, of course, in the principal registry are done by different people in different departments. They have to do the searching and send notices up to the principal registry before the grant issues, and have to deal with the certificate when it comes back, and they have to write the records and keep the lists ready to be sent up, and the copying of the wills for the principal registry in each case as well as the registering. They have a double set of copies to make.

46,278. In registries where there are 600 to 900 grants in a year, the allowance is for four clerks and copying in addition. That would be a case of something under three grants a day. Surely that cannot occupy anything like the whole time of the clerks?—Whether it would occupy quite their whole time I could not say; but there was an inquiry into the question of the clerks in district registries by the Treasury, and, as far as I am aware, they came to the conclusion that they could not propose another scheme which would do it on cheaper lines.

46,279. Are these clerks pensionable?—No.

46,280. Is the decision that they are not pensionable on the ground that they are not whole-time officers?—Partly on that ground, and because they never have passed an examination. Originally, it was not the intention that they should be considered as permanent Civil servants.

46,281. By whom are they appointed?—They are appointed by the district registrar with the approval of the President; they have both signatures under the Court of Probate Act of 1857.

46,282. The district registrar submits a name and the President approves it?—The actual form of the appointment is by the district registrar, and the President signs "approved" in accordance with what is required by the Court of Probate Act of 1857.

46,283. As a matter of fact, are the qualifications of the persons appointed examined in detail by the President or by anybody on behalf of the President?—The district registrar makes a statement in his letter as to the qualifications, and the President deals with it.

46,284. He decides on the statement made by the district registrar?—Yes, unless any further question is raised upon that statement, as to which he would want further information.

46,285. In practice, does the President as a rule accept the nomination of the district registrar?—Yes, as a rule.

46,286. Does that work satisfactorily?—It raises the whole question of what class of individual is required for the clerkships at district registries. As far as my own opinion goes, I think if you had permanent Civil servants after an examination and a certificate from the Civil Service Commissioners, you would not be able to get clerks to apply for posts of that kind unless they had a very much larger salary. They come in there very often quite young, and are able to do the junior work of clerks, and are not necessarily required to give their whole time.

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46,287. Where the district registrar is a solicitor, does he employ the same clerks in his own business?—He could, but I do not know whether he does now in the larger registries.

46,288. There is nothing to prevent him doing that?—There is nothing to prevent him doing that.

46,289. We had before us this morning witnesses representing the Scrivenery Department of the Principal Probate Registry. They asked to be made pensionable on the ground that their employment is for all practical purposes permanent employment. Have you seen the statement which they presented to the Commission?—I have seen the statement, but it is not quite clear from their statement what they suggest.

46,290. In their evidence this morning they suggested that they should be made pensionable and be given a fixed holiday; in fact, that they should be put on an established footing without any reduction of their existing rates of pay?—But that does not exactly say whether they propose to continue to be paid by piecework or to be paid by salary or time.

46,291. As regards that, I think their position was that they had no objection to continuing to be paid by piecework at the existing rates, though they would prefer to be put upon salary. They did not present any definite or complete scheme, but generally what they wanted was to retain all the advantage of their position as it is at present, and to have the advantages of a fixed holiday and a pension in addition. Have you any observations to make to the Commission on that question?—I am strongly of opinion that it is better to keep the whole of the Scrivenery Department, as far as possible, paid by piecework.

46,292. You are decidedly in favour of piecework?—Because it is the only way that I can see of absolutely preventing certain work falling into arrear. The examination of the registered copies always used to be in arrear until the system of paying for it by piecework was started.

46,293. Would it be possible to have a system of payment by salary with a fixed standard or minimum of work to be done by each employee?—I think there would be an objection to that, because then the staff in the Scrivenery Department would also be fixed, if the whole of them were to be treated as permanent Civil servants. The advantage of having a staff paid by the piece, and not limited in number, is that you can never fall into arrear.

46,294. You can always take on extra hands?—You can always take on extra hands, and always ensure the current work going on. If I were to suggest any sort of plan by which they might become pensionable, I should prefer their still being paid by piecework, and that those first employed should not be pensionable until they had procured some certificate from the Civil Service Commissioners under the special clause for dispensing with an examination after a number of years' service and a recommendation from the President. Then all the people who come in would not be made permanent Civil servants until they had given complete satisfaction and had served a certain number of years. That would enable us to have the lower part of the Scrivenery Department simply temporary.

46,295. That would enable you to bring in additional men without interfering with the permanent staff?—Yes; temporarily without interfering with the permanent portion of the staff.

46,296. As regards the present rates of pay, have you compared those with the rates in the general market outside the Government service?—No; I have not.

46,297. Do you know whether there are always a number of candidates for admission to the Scrivenery Department?—There are generally a large number; just at present, in war time, there are not so many about.

46,298. But it is regarded as more favourable employment than outside employment?—I think so, as regards that kind of employment.

46,299. Have you compared the rates paid in the Probate Registry with those paid in the Central Office Scrivenery Department?—The work is so different. I have not compared it because we have so many different classes of work in our Scrivenery Department,

and theirs is merely the ordinary copying of the documents filed as a rule.

46,300. I may say that the representatives of the Central Office Scrivenery Department put rather the other side of the case; they tried to impress us with the variety and importance of their work?—No doubt.

46,301. Are you aware that the rate for manuscript copying in the Probate Registry is 2*d.* a folio of 90 words, whereas at the Central Office it is 1½*d.* a folio of 72 words less 7½ per cent.?—There is hardly any manuscript copying now in the Principal Registry, or very little.

46,302. You have already mentioned the classes of copying that are done in that way—the registered copies of wills in cases of personal application and the exemptions?—Those two, and the copying of the daily entries in the calendar for the public calendar.

46,303. Those are paid for at 2*d.* a folio of 90 words?—I think so.

46,304. Are you aware that the payment for corresponding work in the Central Office is 1½*d.* a folio of 72 words, less 7½ per cent., which is equivalent to 1¼*d.* per folio of 90 words?—No, I was not aware of that.

46,305. Going back to the clerks to the district probate registrars, have they in the past ever been regarded as pensionable?—Yes. There were two opinions from the Law Officers; the first one decided that they were pensionable, and it was afterwards decided that they were not.

46,306. Were any clerks given pensions under the first opinion?—Some were pensioned.

46,307. Then the Government took advice at a later period and went back to the former view, that these clerks were not pensionable?—Yes.

46,308. Has that created dissatisfaction amongst these clerks?—I should think it is very likely to do so. I said I should like to hand in a statement about the registrars' clerks. There is a copy of the application in 1907 which I referred to (*handing in the same*). You also asked for a return of the average earnings of the piecework staff (*handing in the return*).

46,309. From the paper you have handed in it appears that the average earnings of examiners and readers is 125*l.* 8*s.* a year?—Yes.

46,310. And the average earnings of the typists is 179*l.* a year?—With regard to the 125*l.*, the sanction of the Treasury to the payment of examiners and readers was at the rate of 4*s.* 10*d.* per 100 folios of 90 words each—that is, for the examiners and readers. When the system was started the clerks employed upon this work were about equal in class and seniority, and they were given half the amount, so that the amounts for the examiners and readers were about equal; but it is proposed that that should not continue, and that the examiner, the one who is more responsible, ought to get more than the reader, and now the examiner will get a little larger proportion of the 250*l.*

46,311. Ought not they to take it in turn to read and examine?—They used to, but now one is more responsible, and I think ought to have a larger share of the money allowed.

46,312. Then the average earnings of the typists at 1*d.* a folio are 179*l.*?—Yes, I should say the average is between 170*l.* and 180*l.*

46,313. On what period are these averages calculated?—I should think that is the average of the various clerks for the last year's accounts that have been made up.

46,314. Then there are certain clerks who earn more than others?—Yes.

46,315. Is that because they are doing special work?—They are doing special work.

46,316. (*Sir John Kempe.*) A question or two about the clerks. We had it in evidence, I think, from Sir Kenneth Muir Mackenzie that the common scale was given to all the clerks of the Supreme Court and was accepted very reluctantly. I presume the common scale was intended to make the clerks interchangeable between the different branches?—I have never heard that.

46,317. But it is a common scale. You have clerks on the same scale in the Chancery branch, for instance?

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—The salaries of the first, second, and third class are the same in our registry as in the Central Office.

46,318. You do not know whether it was intended, when that scale was fixed, to make the clerks interchangeable between the different departments?—No, I never heard that.

46,319. But, as a matter of fact, the work done by clerks in the different branches is very different. The Probate Court work is quite different from the Chancery Court work?—Quite different.

46,320. Yet they have the same rates, that is to say, you give them the same scale?—They are paid the same. The salaries of the classes are the same because at the time of the reorganisation we were made to adopt that scale. I do not know whether we should have proposed it.

46,321. You consider your Probate work can be learnt in the office to a certain extent?—Yes.

46,322. But in the Chancery chambers it cannot be, and it is necessary to have the qualifications of a solicitor or a barrister. You find you do not require that, you said?—I find we do not require that, although some of our clerks are barristers. We have about seven of our clerks now who are barristers, but they were not brought in as barristers; they happen to be barristers as well.

46,323. Do you find that those clerks brought in as barristers have a better chance of being promoted to registrars afterwards?—The fact that they are barristers is something in their favour if they are recommended for other reasons.

46,324. As a matter of fact, have those clerks brought in as barristers become registrars more than those not brought in as barristers or solicitors?—I do not think so.

46,325. In fact the work of the office is enough to train a man up to the work?—Certainly.

46,326. I suppose the work of the principal registry is the same as the work of the district registries practically?—The work with regard to the passing of grants would be very much the same, and it is confined to the passing of grants in the district registries. They have nothing to do with divorce matters or probate contentious matters, or applications to the Court.

46,327. You have a higher class of work at the principal registry than at the district registries?—Yes, very much higher.

46,328. For that reason you think you need not have the same class of clerks at the district registries as at the principal registry?—No, I do not think so.

46,329. Therefore, you would not require a judge's or registrar's nomination for the district registries, but you are satisfied with the district registrar's nomination?—I think he is in a better position to find local persons who are ready to do the clerical work of district registries.

46,330. As a matter of fact, you get better men at the principal registry than at the district registries?—They are a better class of clerk altogether.

46,331. You sometimes transfer them?—Never.

46,332. You never transfer from district registries to the principal registry?—No, they are not competent to be transferred.

46,333. Can you tell me at all how the work of your office compares with the work of the Inland Revenue Estate Duty Office clerks. Is not the knowledge required for your office and for the Inland Revenue Office very much the same?—No, I do not think so. There they require a knowledge with regard to the duties, which are the Inland Revenue part of our work, but they are not required to have any knowledge of titles to grants and questions of wills and validity. All those questions of law they are not required to know anything about.

46,334. Do you happen to know what class of clerks in the Inland Revenue deal with the work which you deal with. Have not the Inland Revenue what is called an intermediate class of clerks to deal with estate duties, and so on?—They have an Estate Duty Department.

46,335. Do you consider that a higher class of work than yours?—I do not consider it so, but it is not for me to express any opinion about their work.

46,336. To a certain extent they cover the same ground, but you cannot tell how far?—No.

46,337. (*Miss Haldane.*) With regard to this statistical statement, I find there are two female typists, three copying clerks, and 23 male typists and examiners. Are those independent of the Scrivenery Department?—No, the Scrivenery Department includes all the male typists and the two female typists, only the two female typists are paid by salary, and are permanently on the staff.

46,338. Then there are 15 women, including the charwoman, in the lump-summers. Do you know who they are?—We have a resident housekeeper, Mrs. Mosely, who receives a fixed salary of 70*l.* a year. Then we have an allowance, which comes up to 303*l.* a year, for a number of charwomen employed by her. They do not live in the building; they come in simply as charwomen.

46,339. And those are the 15 mentioned?—Yes.

46,340. Why is it that more female typists are not employed. There are only two female typists?—The reason, I think, against that is that the solicitors and solicitors' clerks are entitled to read over their copies of the wills with the original documents, and they go into the copying clerk's room. It was not thought desirable that all the solicitors' clerks should be perpetually reading over with female typists. That is one reason. Another objection is that there are a great many divorce papers which have to be copied by typists, and they do not always contain very proper material.

46,341. Could not the first difficulty be got over. Is there any great objection in reading over?—There is, I think, or it has been thought so at all events.

46,342. You do not consider there is any serious difficulty about that?—It has been thought so. I cannot say more.

46,343. But you personally do not think so?—I do think it very objectionable—I do not say so objectionable as risky; you cannot tell what might happen.

46,344. Do not you think it could be obviated by some other arrangement?—We cannot take away the right of the clerks to go into the room. It could not be kept as a copying department where the solicitors' clerks would not have access.

46,345. When we were listening to the statement of those giving evidence this morning it struck me that a great deal of the work that they described might be done, as it is in other departments, by women?—Some of it would be no doubt, but then the women are also, as a rule, paid by salary, and that is what I object to for the greater part of the work, because I think it is better when paid for by the piece as it prevents arrears.

46,346. Would there be any objection to paying women by piece also?—No, I do not see that there would, except that they prefer being on the establishment.

46,347. The men would also prefer being on the establishment, so as regards that there is no distinction between the men and the women, but I suppose, according to the present scale, the women are very much cheaper than the men?—They get 2*s.* a week.

46,348. They would be less expensive?—They earn less at present.

46,349. But you think a great deal of the work could be suitably done by women in the Scrivenery Department?—I think it is better as it is.

46,350. Independently of that objection of which you have spoken you think it would be suitable work for women?—I think it is better as it is.

46,351. (*Mr. Coward.*) One question on that subject?—Do you happen to know that women are employed in offices where they do typewriting work?—I believe so.

46,352. And I can tell you that they are extraordinarily efficient. I may say in times gone by my firm used always to employ a particular well-known firm of law stationers in London to do all our work. Something occurred that induced us to go to a lady who has got a staff of typists who are women, and I can tell you that the difference between the work done by these women and that done by the firm I speak of

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is incredible; the women's work is done thoroughly well to time, it is done excellently as far as quality is concerned, and they never make any mistakes—it is quite extraordinary. What would prevent the copying of all wills in your office by female typists. The divorce work might readily be kept separate; there would be no difficulty whatever about it?—There still would remain the objection, as I say, of the access of the clerks to their room.

46,353. Why should you have clerks; you might have all the work done by the ladies?—Solicitors' clerks have the right to read over the copies with the clerks.

46,354. But then there would be two or three together, would there not?—Yes; there might or might not be, but it is a question of whether it is desirable.

46,355. Do you think there would be any difficulty in having a room with three or four lady typists and a clerk coming in and going to one of the ladies and reading over the work. One can hardly understand there being any real difficulty about it. However, this is a matter on which we may look for some outside evidence?—I can only express my view, that I think it is undesirable. I cannot put it any different from that.

46,356. Without having tried it?—I only express my opinion. I cannot say more.

46,357. You and I would both begin upon the assumption that efficiency and the efficient conduct of your work is the thing to be aimed at?—Certainly.

46,358. I will assume that, and that the work in your office has to be done in the very best way that it can be done, and most efficiently?—Yes.

46,359. I see that you have employed in your office altogether 125 people, and the cost of it is about 27,000*l.* a year. Now, I should like to ask you, whether, if you were employed to superintend that office and do that work in the best way it could be done, you could suggest any alterations that could be made in it. You have here four registrars, six principal clerks of the Seat, and so on. Could you suggest, to begin with, any reduction in the number of all these people who make up the 125?—I think very shortly I should suggest that the staff should be increased. The work is increasing all the time, and we have to keep on simplifying it, as far as absolutely possible, to get it done.

46,360. May I conclude then that the work is not efficiently done now?—No; you may not conclude that.

46,361. So I should think. Then have not you enough clerks to do it now?—We have enough to get it done, but the work keeps on increasing and we have to look ahead.

46,362. Then you would say that it would be impracticable, consistent with efficiency, to decrease the number of employees in that office?—Yes, certainly.

46,363. Now I come to the salaries. Do you think that the salaries are what should be paid for the work that is done?—As I said before, I think that the registrar's clerks ought to be paid second class salary. Apart from that, I should leave the classes as they are.

46,364. It is rather a curious thing—a thing which you would not find, I think, in an ordinary office—that these clerks, when they once get into a class, get increases of salary wholly irrespective of merit?—You mean their yearly increment?

46,365. Yes?—That applies, I imagine, to all Government departments.

46,366. Do you think that a good plan?—The salary does not become very high when they have got to the maximum.

46,367. Does it not?—Not the maximum of the class. The senior member of the third class, who is in receipt of the maximum of the scale, which is only 200*l.* a year, was appointed in 1899. He has been 16 years getting to the 200*l.* a year. You cannot complain of that as a very rapid increase.

46,368. But I think it would depend upon what he is doing and what his duties are, and whether he performs them efficiently or not. It may be a very large salary for one, and an insufficient salary for another. Similarly they are promoted from one class to another by seniority?—Not alone by seniority, but chiefly.

46,369. I think I am right in saying that you told us that, as a practical matter, they were so promoted?—From the lower class to the second it is chiefly by seniority, with efficiency. If they were not considered efficient to be promoted they would not be.

46,370. You would never go outside the office to get them; for instance, you do not recruit them from solicitors' offices?—We cannot do it. We cannot appoint straight to the second class.

46,371. Why not?—There is no provision for it at all. I do not think the President has power to do it.

46,372. Under what authority are they appointed?—We have not yet heard that there was any express qualification for it?—No, but all appointments to the office from outside are made to the bottom of the third class. After that it is by promotion.

46,373. You say you might appoint them from solicitors' offices or anywhere to the third class?—Yes, to the bottom of the third class.

46,374. Is there any real necessity whatever to recruit the second class from the third except that that is the practice?—I think it would be very unfair if it were not so, without gaining any advantage, because we have several people in the third class quite competent to be promoted to the second class. There are too many, in fact, competent to be promoted, only we have not enough vacancies to put them in. There is not the slightest difficulty in filling up vacancies in the second class.

46,375. I suppose it is not very onerous work they have to do in the second class?—Some of it is. It varies. There are a number of second class places where there is a good deal of complicated work to do; in others not.

46,376. With regard to the registrars, do you consider it necessary for the registrars to be in court during the hearing of all these cases?—That is a matter for the judge. The judge considers it necessary.

46,377. He hardly does that, because when there are two courts sitting you are in one and your clerk in the other?—But if any question arises and the judge wants me, he has only to send into the next court and I can go to him at once.

46,378. But you can equally be at hand if not in court?—It would take some time.

46,379. Do you, in your view, consider that there is any necessity for you to sit in court while a case is going on?—I do not know that it is absolutely necessary that I should be in the chair in court the whole time the court is sitting; but there are many questions arising in the course of a case upon which it is essential that a registrar should be there.

46,380. Would not you find that there are many cases that would be decided without the necessity for asking you a single question?—It is not only for the actual case. When I am in court I am doing other work, not anything to do with the actual case. Except a few notes with regard to the case, I am doing other work connected with the court.

46,381. You think your presence is necessary?—It is necessary for the other part of the work.

46,382. It is rather a high salary to pay for a man to sit in court, unless he is really wanted?—But one is occupied with other work.

46,383. Such as what? Do you mind telling me?—In probate matters. I have to abstract the motions for the judge. Cases which are brought in during the week, on Tuesday, Wednesday, or Thursday, for the following Monday have to be shaped for the judge. Then one has applications from solicitors with regard to settling orders; they have to go into my room, and I go out of court to do that. We have solicitors appearing and sometimes counsel. With us the decrees are connected with the registry work; grants have to be sent for and various notes and applications made.

46,384. But they are very different from the decree in Chancery, for instance?—They are more simple, no doubt, than most of the decrees in Chancery; but we have some complicated decrees. We have complicated orders for variations of settlements which have to be settled very carefully.

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46,385. But that is done in quite another way; there is plenty of time to do that?—No, that is done on motion in court, and we have to draw up those orders.

46,386. Yes, for a settlement to be varied, but that is not when you consider a variation in a settlement?—That is done in the registry, but the order for the variation, which is often very different from the report which is made, has to be settled when one is in court.

46,387. Is that a very complicated matter?—Sometimes they are not very complicated, sometimes they are; they vary.

46,388. I am bound to say I do not quite appreciate how that can be. You dealt, in your first day's evidence, with the question of taxations as imposing a great deal of duty and onerous obligations upon you. Is the taxation of a bill of costs really such a very complicated and elaborate matter?—It depends on the nature of the bill.

46,389. Of course you may have to consider such a question as whether three counsel should be allowed, and also whether documents have been properly copied, but, apart from that and apart from the one item of instructions for brief, is there anything in a bill of costs or should there be anything in a bill of costs that is not absolutely scale charges?—A great deal. There are a great many bills that one can tax without any trouble at all, that are, as you say, nothing but scale charges, such as bills up to the setting down of a case; but where a difficulty comes in sometimes is when solicitors attend the taxation and fight very much over every item.

46,390. It depends upon whether they know their work or do not know it?—Whether they know their work or do not know it, it makes it then very difficult to tax, especially with regard to "Instructions for Brief."

46,391. The "Instructions for Brief" is the real complication?—In a large bill where people claim large sums—500*l.* or 600*l.*—"Instructions for Brief" wants very carefully working out, especially when they are fighting, and it takes a long time and careful thought.

46,392. Is not all the other part of the bill work that could be done by a subordinate?—No, because there are other points.

46,393. You do not want to exercise your talents upon that work, do you?—There are other points where the bill is fought. If a bill is not fought you can get through a taxation comparatively quickly.

46,394. So I should think?—That applies to all taxation, not only in our branch of the business but in other branches.

46,395. (*Mr. Graham Wallas.*) You represent before us the principal Probate Registry?—Yes.

46,396. In what sense do you represent it here?—Because I have been asked to give evidence here.

46,397. By whom. Who chose you?—You mean because I am not actually the senior registrar.

46,398. That is what I was leading up to?—The notice from the Commission was sent to the senior registrar, and he wished me to give evidence, as I have had a great deal to do with the senior registrar's work; a letter, I think, was sent to the Commission and it was acceded to.

46,399. Who is responsible in your department for the ordinary discipline and control of the department?—It is rather difficult for me to answer that question, because I lately have practically dealt with most of the senior registrar's work.

46,400. You may say you are acting senior registrar?—More or less.

46,401. And the senior registrar or anybody who is acting for him is responsible officially for the discipline and control of the department?—Yes.

46,402. The senior registrar gets an extra salary of 100*l.* a year for being the senior registrar?—Yes.

46,403. I have asked for the ages of the officials, but I have not been able to obtain his age. Is he 86?—I could not tell you. He is old, but his exact age I do not know. I did not know he was so old as that. Do you suggest 86.

46,404. I do?—I do not know whether that is correct or not, though I knew he was over 80.

46,405. To whom is the senior registrar responsible for the discipline and organisation of the office?—A

certain amount is on his own responsibility; in other respects he is responsible to the President.

46,406. The President is in a certain sense the supervising head of your office?—Yes.

46,407. Does your experience suggest that it is convenient that the head of an ordinary administrative office should be a busy judge?—The actual administration is by the senior registrar, subject to directions given by the President.

46,408. When was the President last in your office?—He does not come very frequently.

46,409. When was he last there?—I could not say now exactly, but he does not visit often.

46,410. When was he last there?—I could not tell you now.

46,411. (*Mr. Philip Snowden.*) Has he ever been there?—He came once, I think.

46,412. (*Mr. Graham Wallas.*) When?—I could not tell you now. He has never been all round the office.

46,413. Supposing the senior registrar were in fact, owing to age, incompetent to do his work, whose business would it be to find out that fact, report it, and act on it?—I cannot tell you that. I did not know there was any question of incompetence arising just at present.

46,414. What is the length of the working day in your office?—The office hours are 10 to 4.

46,415. Is a clerk allowed to go out of the office for lunch?—Yes, he is allowed; they arrange between themselves.

46,416. How long are they allowed to be out for lunch?—It is generally half an hour, I think; but there is a luncheon department in the office, and a great many of them do not go out at all.

46,417. Is there a definite strict rule as to how long they should be out of their rooms for lunch?—The ordinary arrangement is half an hour.

46,418. I know, but is it an offence to be out of the office longer?—Sometimes they may by special leave be longer if it is an occasional thing.

46,419. Whom do they ask for special leave?—They have to ask the head of the department if they go out for longer than half an hour.

46,420. When does the office close on Saturdays?—At one o'clock.

46,421. What holiday has each clerk in the course of a year?—36 working days.

46,422. Is the attendance of clerks at the office regulated by an attendance book?—Yes.

46,423. Have you seen any attendance books at the office lately?—I have not seen them the last week or two.

46,424. You did not see any attendance book yesterday?—No, I do not see them daily.

46,425. Are you satisfied that the attendance books are kept properly?—I have been satisfied.

46,426. Some of the clerks are chosen to be registrars' clerks?—Yes.

46,427. Are those chosen by the registrars themselves, or by the senior registrar?—They are asked for by the registrars themselves, and are approved by the senior registrar. That means that the registrars can choose certain clerks. They have a choice amongst a certain number. They could not choose people whom it was not convenient to send to them.

46,428. Do the registrars' clerks sign the attendance book?—No, they do not.

46,429. Why not?—Because they are in personal attendance on the registrars, who know exactly what they are doing with regard to their attendance, and it is not thought necessary.

46,430. Is there a rule that all clerks are to sign the attendance book?—I am not aware of a rule to that effect.

46,431. Was there ever an agreement with the Treasury that there should be an attendance book?—These clerks are kept very late some days, and some days get away earlier, but their attendance is absolutely known to the registrar.

46,432. But my question was whether there was a rule?—If there is such a rule, it was considered that it did not apply to them.

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46,433. If the registrar himself does not attend the office, is the registrar's clerk invariably required to attend the office every day?—He attends the office because he has other work to do with regard to the grants. If one registrar is away other work has to be got ready for the other registrars.

46,434. Is it, in fact, an invariable rule that if a registrar is not attending his office his clerk is?—Certainly, in the ordinary way.

46,435. Is the meaning of "in the ordinary way" that it is an offence if the clerk is not there?—No, what I rather mean is that, supposing for instance there was a day at Easter or some day when one registrar is away, probably the clerk would be away too; but in the ordinary term time, when the work is going on, if the registrar is away, the clerk would still have his own work to do at the office which he would come to do.

46,436. What are the hours of work of the clerks in the Long Vacation?—During the Long Vacation the hours are from 11 to 3.

46,437. Is there anything in the nature, for instance, of the Calendar which could not, as a matter of fact, be largely done in the Long Vacation?—All the searching work in the Calendar Department must be done from day to day. Some of the Calendar work could be allowed to collect, but I doubt whether they could get the printed Calendar out so soon as they do if it were done in that way.

46,438. Are you sure it would not be possible to get some annual work assigned to the Long Vacation?—I should not like to say it is absolutely impossible, but it would be very difficult.

46,439. Has anybody ever tried to do so?—It has always been so difficult to get the Calendar in print in reasonable time. That has always been a struggle, and now we have got it up fairly close.

46,440. In other Government departments there is a registry for the whole department in which all letters received by the department are registered. Do you know that?—Yes.

46,441. Is there such a general letter registry in the principal Probate Registry?—No, there is not, because we have so very little correspondence.

46,442. I was told that the principle in your department is that work should not be done by correspondence, but by personal application?—There is a rule to that effect. It is one of the rules that the business applications shall not be made by correspondence.

46,443. Why, from the point of view of the convenience of the public, should that rule be made?—I do not know why it should have been made. Our business is done by solicitors, not by applicants in person, and they ought to come and attend to the application.

46,444. I can understand that it may be convenient to you, but can you indicate how it is more convenient to the public that that rule should exist?—I think so. It would lead to more trouble if all the applications work were done by correspondence.

46,445. Trouble to the public?—It is not with the public so much as with solicitors.

46,446. But even a solicitor is a member of the public?—In that sense; but it is the ordinary public who can come to the Personal Application Department.

46,447. I know; and supposing that a man, as a matter of fact, finds it more convenient to apply personally, he would do so. I am taking the case where he wants to write and you refuse to allow him to write, because you say there is a rule that he is not to?—If the rules were altered, and some department were established to deal with the questions by correspondence, I do not say it is impossible.

46,448. We are considering whether the rule should be altered, and we ask your advice on the point?—I should say there is no real grievance against the present system.

46,449. A certain number of people attend with wills in what, I think, is called the Personal Application Department at your office?—Yes.

46,450. Those are largely people who make a journey to London for the purpose?—Some do.

46,451. And they are not, on the whole, the richest people in the country?—No.

46,452. What they ask for and get at their first interview in your department is very simple information indeed as to what the procedure is, and what they should do?—As far as possible we desire that the people who come up from the country, if it is a poor case, should get their cases through the same day. If they are coming from London, we just take the instructions and get the papers ready, and get them to come up to be sworn another day.

46,453. Take a London case: the applicant comes from some part of London, and you simply, on receiving a statement of his name and business, tell him what he has to do, and ask him to come again?—He gets all the particulars, and you make an appointment for him to come again, and the papers by that time are ready to be sworn.

46,454. Before that very simple interview takes place, he has to wait in your waiting-room?—If the clerks are engaged; but I think a good many of these people who are waiting in the waiting-room are waiting whilst their papers are being prepared, and not for the first interview. If they are merely country ones, and have given their instructions, they are sent to wait there until the papers are ready to be sworn.

46,455. I was told in your office yesterday that some wait three or four hours?—It is very rare, I should think, but if they do wait like that, it is whilst their papers are being prepared, so that they can do it all on one day.

46,456. You can say with confidence that nobody waits for an interview so long as three hours?—I should say it is entirely wrong.

46,457. If that were the case, that would amount to a serious public inconvenience?—Certainly. There were some letters in the newspaper not very long ago saying how extraordinarily they get through their work in the Personal Application Department.

46,458. You say you may want more clerks. Have you sufficient clerks to arrange that everybody, within a few minutes of calling, shall be able to see someone?—I think we have enough to deal with matters at present. There is a little awkwardness just at present, because some of the staff of one or two of the departments are on military service and their places are filled temporarily, so we have not quite so efficient a staff as we had.

46,459. Is your normal staff sufficient to secure that the general public shall get their first interview without delay?—I think so. It is a question wanting a little arrangement, and I was going to look into it myself, to see if the arrangement is absolutely best for making the appointments for these people.

46,460. The first information given when they first call—taking the papers and so on—is very simple indeed, is it not?—In some cases, not always.

46,461. Let us suppose that the more difficult case is referred to somebody else, then practically everybody in your office, in nine cases out of ten, could do what is wanted?—Some of the quite simple ones.

46,462. Would it not be possible, instead of telling off one clerk for that business to arrange, if he was busy when anybody called, that some other clerk should be called up to see the applicant?—There are a certain number of clerks in the department who are considered competent to deal with taking instructions from these applicants.

46,463. But you just told me that everybody is competent, in fact, to do that in nine cases out of ten?—But in practice it is better that a certain number of people should get used to doing a certain class of work, and thus get through it quicker. If a clerk, who has not done the work, is suddenly told to do it, he does not get through it so quickly.

46,464. Meanwhile the public are waiting?—I do not think there is any cause for complaint on the ground of waiting.

46,465. Would you say that the work of your office, in dealing with anybody who calls, is rather like that of a big shop on the technical side?—I do not quite follow your question.

46,466. Would you say that the irregular calling of the public at certain hours and having slack hours at

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other times, and the fact that the public convenience is best met by prompt dealing with everyone as he calls, is a problem which is also found in a big shop?—I should think so, but it is not quite so easy to deal with a Government staff as it is with your own private staff. If you have a private business you can always arrange things better.

46,467. A large part of the work of the office is keeping certain books, giving the name and date and reference to wills, which books are open to the public so that the public can inspect them?—The public calendars; yes.

46,468. Most of these inspections take place within a year or so of the death?—A great many of them.

46,469. The calendars relating to any time within a year or so of the death are kept in manuscript?—For the last year.

46,470. And they are not in strict alphabetical order?—No; they are under small divisions of the alphabet.

46,471. Therefore, a member of the public who wants to look up "Brown" has to look through all the "Browns," for instance?—Yes, for the period.

46,472. And if he is looking up the letter P he has to look up all the P's?—No, not all the P's; there is a sub-division.

46,473. That could be obviated by some card indexing arrangement?—It was considered a few years ago at the time smaller divisions were made in the calendar, and it was thought that it would not work so well.

46,474. Your clerks come into the office at 100*l.* a year, and proceed by process of seniority, subject to efficiency, up to 600*l.* a year?—They do not all succeed in getting up to 600*l.* a year, because there are only five first class places, and they cannot all get there.

46,475. But it is a process of seniority, subject to efficiency?—They have a chance.

46,476. Work paid for at 600*l.* a year ought to be very high class work?—It is an average salary for what is called first class work.

46,477. Is the work, in fact, first class work?—I think so.

46,478. Do you think it is a good arrangement to recruit a man at 100*l.* a year and let him go up after very many years to 600*l.* a year for first class work. You are familiar with the custom in the Civil Service by which in other offices men are from the beginning recruited for different types of work. Would that be possible in your office?—That means by constituting a lower division?

46,479. Yes?—It is so difficult to carry it out. If one could have started with the idea that one had a lower division for a certain portion of the work it might be done, but it is very difficult to carry it out now.

46,480. As to the district registrars, there are a certain number of district registrars who are full-time officers?—Yes.

46,481. It would be perfectly easy to move them from the towns in which they now are to other larger and more convenient towns simply by the direction of the authorities?—If there is to be any alteration of the districts in any way there would have to be statutory authority. The divisions are laid down by statute.

46,482. If a statute were passed empowering a certain authority to make such a rearrangement, there could be no question of compensation in moving a whole-time man from one post to another?—I do not know, I cannot say whether any question of compensation would arise or not.

46,483. Finally, as to the scriveners, can you conceive an arrangement by which there was a fixed nucleus of established scriveners based upon the normal amount of work, but added to in times of stress by extra people taken in temporarily?—I think it is better that the staff should be elastic.

46,484. (*Mr. Philip Snowden.*) You told Mr. Wallas that you were acting more or less as senior registrar at present?—Yes.

46,485. Is that because the senior registrar is not in constant attendance at the office?—No, it is not for

that reason. I have been a long time in the department, and the senior registrar, although he is well acquainted with the practice of the court—he was a barrister in our court—has not had so much knowledge of the departmental work, and since he has been the senior registrar he has practically left the greater part of it to me.

46,486. That is to say, he is not competent to discharge the duties which previously were considered to be part of the work of the senior registrar?—I should not like to say not competent, but he has practically left it to me and I have done it, and I have always seen the President on any question arising.

46,487. You are aware of the rule that applies generally in the Civil Service of compulsory retirement after 40 years' service or after a certain age?—Yes.

46,488. That does not appear to apply to your department?—It does not apply to any of the legal departments. Where it has been applied in some of the other branches it is not applied to people in the position of registrars.

46,489. Can you give us any reason why it should be general throughout the Civil Service and your department should be exempt from the rule?—I cannot give you any reason at all.

46,490. You are aware that you have amongst the principal clerks men who have had more than 50 years' service in the department?—We have not very many. Of the principal clerks of Seats, I think there are two over 65.

46,491. And one second class clerk who has had 50 years' service?—I think he is dead now.

46,492. You said that a clerk must enter in the third class, and that you cannot make appointments direct to the second or first class. Is it possible to make appointments direct to posts above first class clerkships?—The appointments of registrars are open to persons who are qualified in accordance with the statute. Barristers, solicitors, or clerks of the principal registry who have served five years can be appointed.

46,493. There is a registrar whose name appears in the list below yours, who was appointed in 1903—12 years ago. Was he appointed directly to that position?—He was before that a district registrar at Norwich; he never was in the office. He was a barrister in our court. He was the son of Mr. Inderwick, K.C., and then he was appointed district registrar at Norwich, and, when there was a vacancy up here, he was appointed registrar here.

46,494. You told us that the clerks to the district registrars were not competent to go to the head office as clerks there. You consider it is competent for district registrars to go to the head office?—I do not know that a district registrar as such would have the qualification if he had not been a barrister. This one was a barrister, and that is a qualification for appointment either as district registrar or principal registrar.

46,495. You told Mr. Coward that the increment of salary was given without evidence of efficiency on the part of the recipient?—That is so, but there have been cases where there have been complaints of people, and the increment has been stopped for a year or two if it has been thought that a clerk is not deserving of it.

46,496. Have not you to supply a certificate each year before the increment can be granted?—No.

46,497. Looking through the list I see there are cases where clerks in the third class have a greater length of service than clerks in the second class, so would it be fair to assume from that that the promotion of those clerks has been arrested because they were not considered competent to pass to the higher grade?—I do not think so. I do not think there are any cases now.

46,498. (*Chairman.*) Is it not the case that the former copyists, who were appointed third class clerks, are not eligible for promotion?—Not beyond the third class. The top one is not eligible for promotion, and as I pointed out the other day the next senior did not want to be promoted.

46,499. (*Mr. Philip Snowden.*) Supposing a young fellow had a desire to become a third class clerk in

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your department, how would he proceed to get such an appointment?—He would ask to be put on the list of candidates which the President has, and he would be asked to produce references, and then when vacancies occur the list of candidates is considered by the President.

46,500. Is there any qualifying examination?—Yes; a qualifying examination. They are nominated, and then go to the Civil Service Commissioners.

46,501. Is it necessary that they should have experience in a solicitor's office or anything of that sort?—No.

46,502. The clerks to the district registrars are really private clerks of the registrars paid out of the public money?—Yes, they are paid out of public money.

46,503. But they are really appointed by the district registrars?—With the approval of the President.

46,504. Although they are paid out of public money, in the smaller district registries, I understand, if the registrar be a solicitor, they do some part of his private work also?—I do not think there is so much of that done now as there used to be. It used to be done frequently, because there were a great number of solicitors who sometimes had the registry and their office all in one.

46,505. Is there any district registry where the number of clerks is less than two?—No.

46,506. Could you say what the salaries of those clerks are, or is there something like a fixed scale?—It depends upon the scale of the registry and the number of grants in the registry. Take a registry with 600 to 900 grants. There would be four clerks—the chief clerk getting 200*l.*—that means the maximum salary (it may be slightly less), the second 150*l.*, the third 100*l.*, and the fourth 80*l.*

46,507. With regard to the amount of work that there is in some of these district registries, the case of Chichester was mentioned?—That is the smallest registry.

46,508. Where the number of grants is less than 300 and there, I assume, they have two clerks and the registrar?—Yes.

46,509. Is the amount of work that these three persons would have to do equal to the amount of work that would be expected from three clerks in your Central Office?—It is so difficult to say, because three clerks in our office would be engaged on a particular branch of work. There would be a mass of work of which they would take their own share. Here, although there are a very few grants, they have to do *omnium gatherum* work of all different kinds. You cannot compare it with the ordinary work of three clerks in the principal registry.

46,510. But with an average of one grant a day, do you mean to leave the impression on our minds that there is work that justifies the employment and payment of two clerks and a registrar?—The difficulty is that if it is kept as a separate registry, I do not think you could do without two clerks. You could not do all the copying work and the other work and see people with one clerk. Time is taken up with interviewing people, although there may be only one grant. People come to order copies of wills.

46,511. Going back to the question of the appointment of the third class clerks, you told us that it is not essential that they should have legal knowledge. What objection can there be, therefore, to recruiting them in the way clerks are generally recruited in the Civil Service, that is, by means of an open competitive examination?—I have said, according to my view, that if there was open competition and not a very high standard of examination, which there probably would not be for our department, we should get a lower class of clerk than we do now.

46,512. What reason have you to suppose that?—Because the people who come in now are capable of learning higher work, and they are gentlemen, and they are a fair standard and type of men. If it is simply by open competition, all the better class men will go in for the higher examination places.

46,513. From what class are your clerks drawn?—A great many of them have been to universities. We have seven of our clerks who happen to be barristers. We have two or three who have passed as solicitors.

46,514. And they go into your service as third class clerks at 100*l.* a year—barristers and solicitors?—Yes. I do not say there are many barristers. We have seven at present.

46,515. Were they qualified as solicitors and barristers when they entered as third class clerks?—Some of them, and some have passed the examinations since.

46,516. Are you aware that the intermediate class of clerks, to whom reference has been made by a member of the Commission, have to pass a rather severe examination; they are lads who have been to public schools?—I do not understand the intermediate class.

46,517. There is in certain departments—at Somerset House in the Estate Duty Office, for instance—a class of clerk called the intermediate class?—That I do not know anything about.

46,518. They are paid 100*l.* a year, and they pass a fairly severe examination. Do you say you know nothing about them?—I do not know them.

46,519. Therefore you would not be able to say how they would compare with the kind of men you get. Who nominates or makes the appointments to the Scrivenery Department?—They are not actually appointments; they are employed with the approval of the senior registrar, and they are selected either by the head of the Scrivenery Department or record keeper, as a rule.

46,520. What salary will the head of the Scrivenery Department have, and what is his rank in the service?—The head of the Scrivenery Department is a second class clerk. He does not appoint. It is a question of recommending typists, and they are engaged, and if they give satisfaction they remain. It is only a temporary appointment.

46,521. Then this second class clerk has this amount of patronage?—You can hardly call it patronage. He comes in the way of knowing a lot of typists.

46,522. (*Chairman.*) There is one point I omitted when you were dealing with the district registries. Are the clerks to the district registrars eligible for appointment as district registrars?—No.

46,523. Do you consider that they ought to be eligible?—I think not. At the present moment they are a different stamp and different class altogether.

46,524. Is not the work which they do similar to the work done by the clerks in the principal registry?—Not in the same way, because no grant could issue in the district registries without the notice of application for the grant being sent to the principal registry. Everything that is done there is checked in the principal registry.

46,525. But in the larger registries at any rate they must do practically the whole of the work that is done in the principal registry?—A good deal of similar work.

46,526. You consider that work done in the principal registry qualifies the clerks for appointment as district registrars, but you do not consider that similar work done in the district registry qualifies them?—I do not say that one or two chief clerks may not be competent to become district registrars, but the class of district registrars' clerks, as a whole, is not such as to qualify them to be district registrars.

46,527. You would be in favour of maintaining the present position?—Certainly, unless the whole system is altered.

46,528. (*Sir John Kempe.*) Do you happen to know how the numbers of the different classes of your clerks were originally arranged with the Treasury?—There have been different organisations. There was an organisation in 1882 and a fixed number of first, second, and third class was arranged, and the classification was made to assimilate to the classes in the Central Office, with the exception that there were special places for clerks of the Seats, as being outside that classification. On later reorganisation questions, some of the clerks of the third class were reduced.

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Mr. ALFRED MUSGRAVE.

[Continued.]

46,529. The classification has little or no reference to duties in fact?—It was all worked out on the basis of duties at the time the numbers were fixed.

46,530. It is not a mere ladder of promotion?—No. There was a report upon the duties when matters were considered, and certain places were considered to be entitled to certain classes, but they were not absolutely

fixed. It was arranged that the clerks were to be interchangeable.

46,531. You said earlier in your evidence that there was hardly any difference between the second and third class duties?—In some cases; I do not say all. There are some third class duties and some second class duties which are not very different.

ONE HUNDRED AND SIXTEENTH DAY.

Thursday, 25th February 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Rev. the LORD BISHOP OF SOUTHWARK.

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.

Mr. RICHARD DURNING HOLT, M.P.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. LAURENCE CHURTON COLLINS and Mr. ERNEST WILLIAM LEADER (third class clerks, Principal Probate Registry), called and examined.

46,532. (*Chairman.*) (*To Mr. Collins.*) You appear as representing the third class clerks in the principal Probate Registry?—Yes.

46,533. What is the number of the clerks in the registry?—103.

46,534. How many of those are third class clerks?—64.

46,535. Are all those 64 eligible for promotion?—No, only 54.

46,536. The remaining 10 being the old copying clerks who were appointed without any right to promotion?—Quite so.

46,537. The age for entry is between 20 and 30, I think?—Yes.

46,538. And the salary of the third class is from 100*l.*, rising by annual increments of 10*l.*, to 200*l.*?—Yes.

46,539. How is promotion made from the third class to the second class?—Almost invariably by seniority.

46,540. Have there been any cases in which promotion was made, not by seniority but by selection?—Yes, there have been cases now and again.

46,541. Are those cases of a particular man being passed over or of an exceptionally good man being selected from somewhere below the head of the list?—Generally the man passed over was not qualified for that particular work of the department where the vacancy occurred.

46,542. That is to say, it was a special promotion on the ground of the particular work that had to be done by the second class man rather than on the outstanding merits of the clerk who was promoted?—Yes.

46,543. So that normally, you may say, seniority is followed in promotion?—Yes, normally, it is by seniority.

46,544. What is the average rate of promotion?—The last five years it has been 1·2.

46,545. And for the last ten years?—2·3.

46,546. And for the last 20 years?—2·7.

46,547. And the number of promotions in different years is very irregular, is it not?—Very.

46,548. From the figures you have put before us I see that in one year, 1905, there were eight promotions and three appointments to district registrarships out of the third class?—That is so.

46,549. Whereas in certain other years there has been only one promotion and no appointment to a district registrarship?—Yes.

46,550. So that the incidence of promotion is very uneven?—That is so.

46,551. What is the present length of service of the men at the head of the third class?—The head of the third class has been in the Service 16 years in May next.

46,552. That is to say, between 15 and 16 years?—Yes.

46,553. At what age were these men appointed?—At the age of 20—not necessarily at the minimum age of 20, as some, of course, may have come in at a later age than 20. Speaking for myself, I came in at the age of 21.

46,554. So that the men at the top of the third class would be of ages varying from 36 to 45?—Yes. Mr. Leader, for instance, did not come in until he was at the age of 25.

46,555. Have a considerable proportion of the third class clerks now reached their maximum salary?—Yes; no less than 25 will have reached their maximum on 7th March.

46,556. That is to say, there are 25 who have ten years' service or more?—Yes.

46,557. You represent that the rate of promotion is unduly slow?—Yes, unduly slow. That is our grievance.

46,558. What remedies do you suggest?—I think the remedy we most seek is superannuation, that is, that those men who have done 40 years' service, and are over 60, should be compulsorily retired. Although we see that will react on ourselves when the time comes, at any rate we would rather have it like that, because we should move up quicker when we are young.

46,559. You would be in favour of the application of a rule of that nature?—Most decidedly.

46,560. The rule which applies in the Civil Service generally is that a man may retire at 60 and must retire at 65, and may be called upon by the head of his department to retire at any time between 60 and 65?—Yes.

46,561. You speak of a rule of retirement after 40 years' service. I am not aware that any rule to that effect exists formally in the Civil Service, although it may possibly be the practice in some departments to allow men to remain until they have served 40 years. Is not that the case?—Yes, that is so, I think.

46,562. You would advocate the application of the general Civil Service rule to this department?—Yes, we should be quite satisfied, I think, with that application of the general rule to our department.

46,563. Do you consider that that would be advantageous on general grounds as well as from the point

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[Continued.]

of view of promotion?—I think it would, as a rule. There may be cases where it would not be, perhaps, altogether advantageous. For instance, it is advantageous when men have got to a certain class where, by remaining longer, they will never get any higher than that particular class they are in.

46,564. Do you think the performance of the work would suffer if the Civil Service rules as to retirement were applied?—I do not think it would.

46,565. And might it even in some cases be improved?—Yes, improved.

46,566. Have you also any representation to make with regard to appointments to district registrarships?—Of course our feeling is that as we are particularly qualified for the work, and we are really the only people who have had a special training for the work of the district registries, we should certainly have, at any rate, a larger proportion of them than have been generally allotted to us.

46,567. During the last 10 years the proportion given to clerks in the principal registry has been smaller than in the preceding 10 years?—Yes.

46,568. Do you know what the reason of that is?—It lies entirely with the President as to whom the district registry will be given to.

46,569. It is a matter that entirely depends on the personal views of the President?—Exactly.

46,570. It is not due to any difference in the character of the appointments that have fallen vacant in those years?—No.

46,571. You say you yourself were appointed at the age of 20?—21.

46,572. What had been your experience before you were appointed?—I was at Balliol College for six months, and then my father and I talked the matter over, and it was decided that it would be better for me, if I went into the Civil Service, to start early. At first I was going in for the ordinary Home Civil Service, and, finally, some one recommended the Probate Registry, and said: "As he is young, he can go in earlier," and I got a nomination for the Probate Registry. I went in at the age of 21.

46,573. Then you went straight from Balliol without waiting to take your degree?—Yes.

46,574. That being the case, you had not any experience in a solicitor's office before being appointed?—No; but Mr. Leader had.

46,575. (To Mr. Leader.) What was your age on appointment?—I was 25 when I was appointed.

46,576. What had been your previous experience?—I was articled to Mr. Herbert Oldfield, a solicitor, and passed my final examination in 1895. I had nearly five years' experience as a solicitor.

46,577. (Mr. Coward.) In serving your articles?—In addition to the time of my articles.

46,578. (Chairman.) Did you find, when you came into the office, that your experience in the solicitor's office was of value to you?—I think I may say it has been of very great value to me.

46,579. As regards experience of law in general, or for the particular work you had to do in the office?—I think, as far as legal training goes, one has a certain outlook on things that, I think, is not usually the case. I had also a certain amount of probate experience in the office in which I was, which was of assistance.

46,580. Then it is more a question of attitude of mind and general outlook than the particular knowledge that you acquired, that you found valuable?—Yes, the training of the mind, I think.

46,581. Would you have had any difficulty in learning the work of the office if you had not had experience in a solicitor's office?—In the office you start from the beginning, and there are numbers of cases that occur in the office that are brought to one's notice which you never get in a solicitor's office. For instance, I was 10 years in a solicitor's office, and the grants that we have frequently in the registry I had never heard of in that time.

46,582. By that you imply that there is a considerable amount of the more difficult work in the Probate Registry which you had never come across in the ordinary work of a solicitor's office?—Yes.

46,583. That work you have to learn, anyhow, after you enter the office?—Yes, you have to learn; but when reading for the solicitor's final examination you have to cover the whole law of the country, and you read from the text books about the various kinds of grants, although you never in practice have them.

46,584. (To Mr. Collins.) Did you find any difficulty in learning the work of the office, although you had not been in a solicitor's office?—No, I cannot say I did, although I quite understand, according to Mr. Leader, that you get a legal way of looking at things probably which you do not get at once in the office. In the office we have to begin at the beginning and learn step by step, until we get a thorough knowledge of probate, of course, and nothing else.

46,585. Did you find yourself at a disadvantage, as compared with your colleagues, from not having had legal experience?—No, I cannot say I have found any disadvantage.

46,586. (Mr. Holt.) You told us that you considered you had some special claim to appointment to district registrarships. Are there no clerks in the district registries?—(Mr. Leader.) They have a staff in the district registries, yes.

46,587. Would not their staff have a natural claim to the district registrarships?—I do not think that is a question that really affects a third class clerk in the principal registry. I know nothing whatever of the rules under which the clerks in district registries enter the service, whether by nomination or whether they are simply appointed by the district registrars as ordinary clerks.

46,588. Are the clerks in the principal registry practically all Londoners?—Do you mean where we spring from?

46,589. Yes?—I do not think so. I think many of the men came from various parts of the country.

46,590. When you came in was there any advertisement of the vacant position?—I had the pleasure of knowing Sir Francis Jeune, and he told me that he thought I should do well in the office. He gave me a nomination to the office, and when there was a vacancy I was informed of it and went up for examination, and was appointed to the office when the vacancy fell due.

46,591. Then you heard of it through private friends?—Entirely.

46,592. (To Mr. Collins.) Does the same apply to you?—The same applies to me. It is not a competitive office; the examination is not competitive. The entrance is entirely by nomination from the President, and the examination fee is one of the highest paid, I believe—6*l*.

46,593. Then the whole of the introduction to the office really depends upon getting information through private friends, and having it brought to your notice by private friends?—I think so entirely. There is no competition.

46,594. And a person who had not private friends would probably not know anything about it?—Probably not.

46,595. When you applied for this situation, what was the ultimate goal of your ambition?—I suppose the same that everyone else has.

46,596. What is that—to be registrar?—Registrarships have been given in the office, but they are very rare indeed; but I think the ultimate goal of one's ambition is to be principal clerk of Seat. That is the highest position that is open to the ordinary person in the office.

46,597. That is what you considered your prospects?—Yes.

46,598. (Mr. Boutwood.) In the last paragraph of your memorial you speak of a memorial to the President of the Probate Division. What was the answer to that memorial? What did the President say?—I think he merely acknowledged the receipt of the proposal, and made no remark on it.

46,599. Tell me something, if you can, about the clerks who have been sent to the district registries. Apparently the salaries in those district registries run from 200*l*. to 1,200*l*. What sort of registry is it that one of your third class clerks goes to?—Out of the last ten

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appointments which the President has had at his disposal four have been given to clerks in the office.

46,600. What registries were they?—One is Northampton.

46,601. What is the salary there?—A salary of 250*l.*, and it was commonly known that there was a difficulty in the President disposing of that registry at all. It was practically hawked round, because only barristers and solicitors and clerks in the office are eligible, and finally a clerk was asked to accept it, and he did. In regard to the other registries, Mr. Nepean went to Bristol.

46,602. What is the salary at Bristol?—Bristol is worth 600*l.* (Mr. Leader.) Mr. Nepean was not a third class clerk. At that time he was well on in the second class.

46,603. What were the other two?—(Mr. Collins.) Wakefield went to Mr. Thomson, who is a son of the late Archbishop, and he also was in the office; and Carlisle went to Mr. Hunt.

46,604. What are Wakefield and Carlisle worth?—Wakefield is worth 1,200*l.*, and Carlisle 700*l.*

46,605. What was Mr. Thomson's position in the office when he went to Wakefield?—First he went to York, and then he was transferred. He was a second class clerk. Mr. Hunt, who went to Carlisle, was a principal clerk of Seat.

46,606. (Mr. Graham Wallas.) Who was his father?—(Mr. Leader.) I have no knowledge at all.

46,607. (Mr. Boutwood.) (To Mr. Collins.) Did you pass an examination?—Yes, I passed a qualifying examination, as it is called.

46,608. The usual examination?—Yes.

46,609. (Mr. Graham Wallas.) Are either of you, Mr. Collins or Mr. Leader, registrar's clerks?—(Mr. Leader.) Neither of us. We are both clerks at the Seats.

46,610. Have you ever been registrar's clerks?—No.

46,611. (To Mr. Collins.) During the last month have you seen Mr. Registrar Pritchard?—Yes, I have.

46,612. Do you remember when?—Last week, I think.

46,613. In your representation you say that one President persuaded certain old men to retire. What President was that?—Sir Francis Jeune did, I remember, just before I came in. That was a year when I think there were nine retirements.

46,614. You say, "The improvement which has taken place latterly has been due in part to the resignation of a number of quite young men, partly to one President having persuaded several old men to retire." That must have occurred latterly. When was that?—I do not remember a case. Is that in our memorial?

46,615. The words in the memorial signed by G. W. M. Baker, Henry F. O. Norbury, L. C. Collins, James Chapman, Harold Bostock, and Ralph A. Cameron, are: "The improvement which has taken place latterly has been due in part to the resignation of a number of quite young men, partly to one President having persuaded several old men to retire."—That would be in 1905, when there were a few old men who were invited to retire.

46,616. In what part of the office were those old men?—One was in the Searchers' Department.

46,617. What was his rank in the office?—He was in the second class after 47 years' service, with no prospect of getting any higher. Mr. Neville was also a second class clerk with 43 years' service, and Mr. Ryves was a second class clerk, and he retired after 39 years' service.

46,618. You say the President persuaded them. In your opinion, did it depend entirely upon their own decision whether they went or not?—Yes, I think it did.

46,619. (To Mr. Leader.) And is that your opinion?—Yes.

46,620. (To Mr. Collins.) You were at Balliol?—Yes.

46,621. While at Balliol did you sit for Responsions?—No, because I had already passed the Oxford and Cambridge Higher Certificate.

46,622. Did you sit for any examination at Balliol?—Yes, the Entrance Examination for Balliol.

46,623. During your period at Balliol did you sit for any examination?—No, I sat for no examination.

46,624. When you left Balliol did you go at once into the Probate Office?—No, I went to Scoones' first.

46,625. Did you do any paid work in London between the period at which you left Balliol and the period at which you entered the Probate Office?—Yes, I took a tutorship for a few months. That is all.

46,626. Then you did not leave Balliol to go into the Probate Registry?—No, I did not. I left Balliol to go into the Home Civil Service, and then Mr. Scoones said, "He is too young for that." I was but a year at Mr. Scoones', and finally he suggested to my father the Probate Office.

46,627. (Mr. Holt.) What part of the Home Civil Service were you intending to go into?—The ordinary open competition.

46,628. Class I.?—Class I.

46,629. And you left Balliol in order to qualify for that?—Yes.

46,630. (Mr. Graham Wallas.) When any one of you is late in the morning, that fact is recorded in a time-book?—It should be. We have an attendance-book, and we sign at the time we arrive.

46,631. Why do you say "should be" instead of "is"?—Because 10 minutes is a sort of latitude allowed.

46,632. Still you sign?—Yes, still we sign.

46,633. What do you sign, then?—If we are up to 10.10 we sign as 10.

46,634. (To Mr. Leader.) Is that also your practice?—I believe that is the rule in all Civil Service offices.

46,635. (To Mr. Collins.) If you are after 10.10 a.m., what do you sign?—We sign the time we actually arrive.

46,636. Have you yourself during the last month, or say, since Christmas, signed any time later than 10?—No, I do not think I have been later.

46,637. (To Mr. Leader.) Have you?—I have not been late at all.

46,638. What happens if any clerk does sign a later time than 10 o'clock?—The book is usually taken to the registrar at certain periods, when the times are officially looked through.

46,639. What happens then?—I do not know.

46,640. (To Mr. Collins.) Who is the registrar out of the four registrars to whom it is taken?—I think any registrar may ask to see the attendance-book.

46,641. Mr. Leader tells me that the attendance-book is taken regularly as a matter of routine to the registrar. Which registrar is that?—(Mr. Leader.) I should correct myself. There is a senior registrar's clerk, and he has the book taken to his room. We colloquially say it is taken "to the registrar."

46,642. He is Mr. Pritchard's clerk?—Yes, Dr. Pritchard's senior clerk.

46,643. The book is taken to Dr. Pritchard's senior clerk, and can you recall any instance in which anything happened because that book was taken to Dr. Pritchard's senior clerk?—(Mr. Collins.) We can only judge by our own department.

46,644. In your department can you recall any further action being taken?—No further action has been taken. I suppose it has not been thought necessary.

46,645. Then it is not taken to Mr. Musgrave's clerk?—We really do not know to whom it is taken. (Mr. Leader.) The messenger collects the book.

46,646. (Mr. Coward to Mr. Collins.) I see that you have 64 third class clerks?—Yes.

46,647. I suppose most of you do different sorts of work, or do you do the same work?—Mostly different work.

46,648. Will you tell me what you do. For instance, you are supposed to be there at 10 in the morning?—Yes.

46,649. Will you give me an account of your day's work. Take yourself?—We —

46,650. Not "we," but "I"?—In my room I vary the work as much as possible, so that each man has different work to do every week.

46,651. I am just asking you to be kind enough to tell us what your work is. When you go in there at 10 o'clock in the morning what do you do?—I may

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[Continued.]

tell you that my work this week will be different from what I will be doing next week.

46,652. Let us have your work this week?—When I arrive, there is a basket that contains all the letters that come from the district registries—applications for grants from those registries.

46,653. With the wills?—Sometimes with the wills, sometimes not; it depends on the nature of the case. If it is a very simple case the will is not sent, but the will is quoted.

46,654. That is to say, the name of the deceased, the names of the executors, and then you grant the probate upon that?—Exactly.

46,655. And the amount, I suppose?—No; the amount is not given, but the names of the executors, the appointment of the executors in the will, and the names of the people who are applying are given. Those are opened and looked through, and, if quite correct, they are passed, and a certificate is written stating that the case has been searched, that is to say, that no other application has been received at the principal registry or nobody is making one at the principal registry for that particular grant. That is searched by the searchers upstairs, who look through the books to see that there is no other application.

46,656. Who does that? I am asking you about yourself. If you could tell me what you yourself do, and how you do it, I shall be glad?—I write the certificate for this, stating that the case has been searched and no other application has been made.

46,657. But you have found out from the work of other clerks that that has been done?—Exactly.

46,658. You are not telling me very accurately what you do. I want to know whether I can get from you exactly what you do?—I thought I told you that they were searched by other clerks to see that no other grant had been made, and I myself write out the certificate stating that these names have been searched and no other grant has been made. Then those are put into envelopes and sent to the district registries.

46,659. (*Mr. Holt.*) Do you sign the certificate?—No; I do not. The certificates are not signed.

46,660. (*Mr. Coward.*) It is a mere memorandum?—Yes, it is a mere memorandum.

46,661. That there is no other application for probate?—Yes.

46,662. And that all is in order?—That all is in order. Then these entries are looked over by the principal clerks of Seats, and if anything is wrong with them they make a memorandum, the certificate is not sent, and the mistake or error or omission is corrected.

46,663. But if you are competent for this work and have looked over it, what does it want another eye over it for?—I do not look over these particular entries.

46,664. I have not found out from you what you do except that apparently you open these envelopes, tell somebody else to do this searching work, and you make a memorandum that it has been done. Is that about it?—Yes.

46,665. That must require long education?—That is as far as the country notices are concerned, but that is only by-work; it is not the actual work we do.

46,666. Then let us come to the actual work?—Now we get to the work that comes in for the day; that is, applications for grants.

46,667. Will you kindly confine it to yourself?—Yes. There are applications coming in for grants at the principal registry. There is a document called the Oath, and the fee sheet showing that the fees have been paid, and the will, and the Inland Revenue Affidavit. These cases are entered into a book.

46,668. Just pausing there, the solicitor's clerk who knows his business brings you these things and has them all arranged for you in apple-pie order?—Exactly.

46,669. Now will you go on with what you do?—We make a note of those cases in a book. I make a note of those cases in the book, and I write it down.

46,670. The name of the solicitors, and the name of the applicants. Is that right?—The name of the deceased—not the name of the applicants—where the residence of the deceased is, and the date of death.

46,671. In columns in a book?—Yes, in columns in a book. Then the case is sent to the principal clerk of seats.

46,672. Is your work with that done then?—Just temporarily. He looks over it, and if he considers that the grant can be written the cases come back from him certified that they are correct and can be written, and then I write out the grant; and on the grant is written the name of the deceased, the place of residence, the place of death, whether there is a will and one codicil or a will and two codicils, the names of the executors, the amount, the name of the solicitors, and the date. The engrossment of the will is then affixed to this, which is called the grant, and that is a grant finished.

46,673. The grant is on a printed form?—Yes.

46,674. And you fill up the blanks?—Yes. Then in addition to that there is a memorandum, and an exact duplicate of the grant is made with the addition of the addresses of the executors.

46,675. Do you do that?—I do that, and that is called the "Act." In addition to that there is what is called a calendar slip, which is another concise description of the Act, not so much in full but abbreviated for the purposes of the calendars when they are sent to be printed at the end of the year. In addition to that I put on the actual will itself the details—that probate of this will was granted to such and such a person.

46,676. Is that your work, may I take it?—You may take it that that is an example of my work.

46,677. Do you think that there is anything you have told us that any intelligent man of 25 could not do after one day's work? Could not you show me how to do all that you have said that I should have to do in that office in a day?—Yes, that is so. I have given you an instance of the simplest kind of case. Now there are many cases which are very complicated. That is the simplest case you can have.

46,678. That is your ordinary day's work?—That is the simplest kind of case, but now you can have a case which is very complicated.

46,679. I have no doubt that when you have a complicated case you would go to the registrar or somebody and ask him what to do?—No, we are there to learn complicated cases. It is true we must have a knowledge of a simple case, but when it comes to complications that is work which can only be done after being there for years. I have been for 10 years at the Seat, and even now I can be puzzled by a case.

46,680. Yes, I can understand it. Your hours of work are 10 to 4?—Yes.

46,681. And one hour for lunch?—No, half an hour is generally as much as one can get.

46,682. Really?—I very rarely take more than half an hour.

46,683. And you are back at work at the expiration of the half-hour?—Yes, half an hour.

46,684. With regard to vacation, how long do you get in vacation?—We get six weeks' leave.

46,685. And at Christmas?—We get Christmas and Boxing Day.

46,686. The 21 days?—Not 21 days.

46,687. And 10 days at Easter?—No, we get six weeks in all, and two days at Christmas.

46,688. And at Easter?—Two days at Easter.

46,689. Yours is an office that works more than many of them—more than the Central Office through the Vacation?—We do work right through the Vacation? (*Mr. Leader.*) We have no short hours except during the Long Vacation, I think that is what you mean?

46,690. (*Sir John Kempe.*) I see in the memorial from the Central Office of the Supreme Court the second and third class clerks say that their salaries are fixed on a lower scale for work of equal importance to that of other departments of the State. Do you make the same claim. Do you consider that your work is on an equality with the work of the Central Office of the Supreme Court?—(*Mr. Collins.*) Yes, as far as I know, but I do not know what their work is.

46,691. Then you cannot tell me what they are comparing their work with?—No, I do not know at all.

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46,692. Nor can you tell me in comparison with what class of clerk they consider they are more lowly paid?—No, I have no idea.

46,693. You entered upon your clerkship by nomination and not by competition?—By nomination.

46,694. Do you consider that, having entered the office by nomination only, you have as much claim as those who have entered by open competition—I mean as much claim to all the rights of the Civil Service, so to speak. It is a common argument among Civil servants that those who enter by open competition have earned a claim to all the rights of the Civil Service. You would not go so far as that?—No, I do not think I would.

46,695. You entered by no competition?—We had a qualifying examination.

46,696. A very simple one—less than the lower division?—Yes. I have not heard that argument advanced, so I hardly know what to say to it.

46,697. Still, *primâ facie*, you have not earned the rights of Civil servants in the same way that the general Civil servants have earned theirs—they have had long training for examination, and so on. You simply come in by nomination, and you step into a salary for the work which you do. However, you make no claim on that point?—No.

46,698. The numbers in your office of first, second, and third class clerks, in comparison with the ordinary Civil Service classes, give a very good prospect of promotion—a better prospect of promotion than to the ordinary Civil servant. I suppose you are longer waiting for promotion because there is no compulsory retirement?—Quite so.

46,699. If you had compulsory retirement you would have a better prospect of promotion than the rest of the Civil Service practically?—No, not better than the rest of the Civil Service.

46,700. Better than many of the departments of the Civil Service. The proportion of your first and second class to your third class is much higher than in the majority of offices in the Civil Service; you have rather more than one to two. Perhaps that you have not gone into?—We claim there is a disproportion in the second and third classes as compared with the Central Office.

46,701. You take second and third together as against the first; but I am speaking of the third class

only?—Yes, of the third class only, as against the second.

46,702. (*Mr. Matheson.*) Are there any people in the third class who have taken their degrees at the Universities?—Yes.

46,703. Can you tell me at all what proportion?—Roughly about 10.

46,704. Are there any who have a solicitor's qualification?—Yes. Mr. Leader has a solicitor's qualification. We also have barristers.

46,705. I gather from an attendance book (which I have looked at) that in the Long Vacation some clerks do not attend for more than about three or four hours?—(*Mr. Leader.*) I do not know what they do in other parts of the office, but our hours during the Long Vacation are practically the same as at ordinary times. We are short-handed during the Long Vacation because most of the men have to take their leave during that time, and we have to be there at 10 o'clock, and usually are there until 4 o'clock or after.

46,706. (*Chairman.*) Which branch of the office are you in?—The Seats. (*Mr. Collins.*) Might I say that we have a certain amount of work to do every day which has to be kept up to date.

46,707. (*Mr. Holt.*) What are your views as to the conditions under which you can be got rid of? Do you consider that you have, so to speak, a freehold for life? (*Mr. Leader.*) Do you mean as things are at present?

46,708. Yes, as things are at present?—That is what we are trying to have altered. We want to put our case before you that we should all benefit by compulsory retirement.

46,709. Is it your view at present that nobody has any power to turn you out if you do not choose to go?—I really do not know what the powers of the President are. I believe the only power of turning anyone out is if they are guilty of misconduct.

46,710. That is, as long as you do not do anything criminal, nobody has a right to send you away. Is that your view of the position?—That is my personal view. I should not like it to be taken as evidence, because I have not any knowledge of the subject. (*Mr. Collins.*) That is my view, too, as far as one's knowledge goes.

46,711. Therefore, if any one of you at the age of about 90 were to find it very difficult to get down to the office at all, it would be a great act of grace on your part to retire?—It would be so looked upon by our juniors.

46,712. As an act of grace?—Yes.

Mr. CHARLES EDWARD FARMER, recalled and further examined.

Witness: I should like to make an addition to my answer to a question which the Chairman put to me last time. The suggestion was that none of the principal clerks now had any right to succession, and I said they had no right to succession; but I want to make this addition: Though it is a fact that the principal clerks in the office have no right to succession, there is not the slightest doubt that those who were qualified under the Act came into the office on a tacit understanding that they would in due course succeed to the registrarship. I wanted to make that quite clear.

46,713. (*Chairman.*) You are of opinion that they came in with that tacit understanding, but not with a statutory right?—I do not say that they have not a statutory right. The registrars must, under the Act, be appointed from among the principal clerks, and though the principal clerks now in the office came in with no right of succession reserved to them, still they came in, as I say, on a tacit understanding that if they were qualified under the Act they should succeed to the registrarship.

46,714. I will read you a paragraph from Sir Kenneth Muir Mackenzie's memorandum prepared for the Chancery Registrars' Committee, and ask you whether you consider that that correctly states the position: "There is at this moment only one of the principal clerks with the statutory right of succession to a registrarship"—this was prepared for the Committee which sat in 1907—"five others have been appointed with notice that they have no vested right

"of succession; three others have been appointed simply "as second class clerks in the Supreme Court, and have "no better rights than any other clerks in the Chancery "Division, except the advantage and opportunity which "any of them has of showing himself to be a desirable "man to retain and promote in the department." Is that a correct statement of the position at that time?—I think that was a correct statement, with this proviso, that I think the clerks coming in came in on the understanding that they would succeed. I think that is the way they understood it.

46,715. (*Mr. Graham Wallas.*) They understood that?—They understood that.

46,716. (*Chairman.*) But it is stated that five of the principal clerks had notice that they had no vested rights to succession?—They had no right to succession. They had notice of the fact that they had no statutory right of succession. That was abrogated.

46,717. But you consider, that though they have no statutory right of succession, they had an expectation of succession?—I think they had a tacit understanding that they should succeed, and they came in with that idea, and I can certainly say for one—my own clerk—that he certainly would not have come in unless he had thought he would succeed to the registrarship on that understanding.

46,718. (*Mr. Boutwood.*) As I understand it, the registrars are required to be clerks in the registry, and there is a statutory qualification for registrarship?—Yes; clerks in the registrar's office.

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46,719. Then Sir Kenneth spoke about one principal clerk with a statutory right?—He had at that time.

46,720. What was the Statute?—5 Victoria, chapter 5.

46,721. What does that say?—“On the death, resignation, promotion, or removal of a junior registrar for the time being the vacancy thereby occasioned shall be filled up by the senior of the clerks to the registrars for the time being, to whom no sufficient objection to the satisfaction of the Lord Chancellor shall be made.”

46,722. Is that still effective, or has that been repealed?—It has never been repealed.

46,723. How is it, then, that these five have not got the right which comes under that section? Who took it away from them?—That has always been a puzzle to me.

46,724. What was the authority that could override those enacted words?—I should say none whatever.

46,725. Who purported to do it? Who gave these five men notice that they had no right?—It was done by the Lord Chancellor at the time, on the advice of Sir Kenneth Muir Mackenzie.

46,726. (Mr. Holt.) Who was the Lord Chancellor at the time?—That would be in the year when Mr. Jolly was appointed.

46,727. (Chairman.) Those appointments have been made at various times, I think; so they probably were made under several different Lord Chancellors?—I am looking for the date of Mr. Jolly's appointment.

46,728. His original appointment was in 1898, but his appointment as registrar was in December 1912?—That would be the date.

46,729. It was not only the last appointment, but the previous appointments of clerks to registrars, which were made with notice that there should be no vested right of succession?—When Mr. Jolly, who is the junior registrar at present, was appointed.

46,730. He was appointed in September 1898?—That is the date when he was first appointed to the office. It was in Lord Halsbury's time.

46,731. Do you consider that that section of the Act of 5 Victoria being in force, the Lord Chancellor has no power to appoint anyone as registrar, except one of the clerks?—That is my opinion.

46,732. Has the Lord Chancellor large powers under the Judicature Acts for regulating the numbers, duties, and salaries of officers in the different departments?—I think he has, but I am alluding now only to the appointment of registrars. I have here the order under which Mr. Jolly was appointed a registrar, and that is dated 1913, and was made under 5 Victoria, chapter 5, and the subsequent Acts.

46,733. It appears, on the face of it, that it was made under that Act and subsequent Acts?—Yes, but perhaps I ought to say that I pressed for an order being made under the Act. Sir Kenneth Muir Mackenzie wanted the order made by simply putting the order in this form: “I, Lord Chancellor, do appoint so and so, one of the registrars of the High Court of Chancery.” I wrote him a very strong letter stating my objections to the order being drawn, except under the Act. I have a copy of my letter which I wrote to him on that occasion. I wrote to say that I thought it was a very serious matter for any appointment to be made to the registrarship except under that Act, as I thought that such an appointment might affect its validity. He answered me by saying that the Lord Chancellor signed the order appointing Mr. Jolly in the form in which I had sent it, but I was not “if you please”—his expression was—to take that as a precedent for the future. I think I have given his exact words from recollection.

46,734. Then if the section of that Act of 5 Victoria were repealed, do you consider that the clerks to registrars, having been appointed with notice that they would have no vested right, would have any ground for complaint?—I think they would. I should think, undoubtedly, it would be a very serious matter to them, having regard to the terms on which they considered they came into the office on their appointment.

46,735. The terms on which they accepted their appointments were that they had notice that they had no vested right to succession?—They had no vested right to succession, but I cannot say more than that it was understood by them that they would succeed, and I think they so understood it; in fact, I know they so understood it.

46,736. At the end of your evidence the other day we were dealing with the question of the amalgamation which has been suggested at various times between the Chancery chambers and the Registrars Office. You expressed your opinion against that amalgamation?—I did.

46,737. And you gave as one reason that, if that amalgamation were carried out, it would be necessary to attach particular registrars to each group of courts?—I thought so. I do not see how the amalgamation could be carried out in any other way.

46,738. Referring to the Report of the Kekewich Committee, they recommended that the two offices should remain separate?—Yes.

46,739. But they also recommended, did they not, that the staff of the Registrars Office should consist of six registrars, eight principal clerks, three clerks, and three assistant clerks, and that this staff should be divided into three groups, each of which should consist of two registrars and clerks adequate to dispose of the orders made, whether in court or in chambers, by one of the three pairs of judges among whom the business of the Chancery Division is, according to the system now prevailing, divided; and they further recommended that each of those groups in the office should, by a system of rotation by sittings, move from one group of courts to another group of courts. So that the Kekewich Committee recommended the attachment of a particular section of the Registrars Office to a particular group of courts, while the office remained separate?—That part of the Report of the Kekewich Committee was dissented from by both Mr. Justice Kekewich and Mr. Christopher James, and they followed the opinion of all the Chancery judges, who thought that the Registrars Office ought to be maintained as a separate department.

46,740. Still, that was the recommendation of the majority of the committee?—The recommendation of the majority, but not of the Chairman and Mr. Christopher James.

46,741. The Chairman and Mr. Christopher James do not say that that would be impracticable, but they say it would be undesirable?—They say it was a step that was to be deprecated.

46,742. Yes, but not that it would be impracticable?—They do not say it would be impracticable.

46,743. So that it is not an insuperable obstacle to the amalgamation of the two offices?—I do not say it is insuperable, but in my opinion it is very inadvisable.

46,744. What are your reasons for thinking it inadvisable?—I think the Registrars Office ought to be a separate establishment entirely from the masters.

46,745. That is rather a different point. I was asking, what are your grounds for thinking it undesirable to attach groups of registrars and clerks to each group of courts, whether the office remained separate or was amalgamated?—I think the registrars ought to be an independent body, and they ought to rotate among the judges, so as to convey to the judges what they know is the opinion of different judges as questions crop up on matters which occur in different courts from time to time.

46,746. But it was proposed that these groups should rotate. The words of the Report are: “We further recommend that one group shall be attached to each of the three pairs, not permanently, but for regular periods of not less than one sittings, so that at the end of each period each group shall be attached to a different pair of judges for the ensuing period”—that is a system of rotation. The arrangement there recommended would secure a system of rotation?—I suppose that is possible.

46,747. Apart from that question of division into groups, you were beginning to state your general objections to the amalgamation of the two offices?—In my opinion the registrars ought to be an independent body. They act as advisers; they supervise the orders of the

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judges and also of the masters, and see that they are all in order, and they carry out the practice of the court. I think they ought to be an independent body entirely, so as to be able to retain this supervision over all the orders made, and to let the judges know, or the masters know, the practice of the different sides of the court, and impart the knowledge they have acquired to the judges and masters as questions arise.

46,748. As regards their knowledge and power of applying that knowledge to the orders, would there be any practical difference if they formed part of the same office as the masters?—It would not affect the orders, but would affect the practice in making those orders.

46,749. Why?—Because you have to see that all the judges make the orders in conformity with the practice of the day.

46,750. What would prevent the registrar from seeing to that in his somewhat altered position?—I do not say he could not do so.

46,751. Why should he be in a less favourable position to do so?—I think if he is attached to one group of judges more particularly it narrows his information.

46,752. But the recommendation is that they should rotate?—Yes, but I do not know how you would carry that out.

46,753. What would be the difficulty? You and one of your colleagues would be attached to the first group this sittings, to the second group the next sittings, and to the third group the following sittings. In that way you would have complete rotation between the different groups of courts and the different judges?—I suppose you would have to alter all the rooms and make the registrars go and join the masters in their offices.

46,754. The question of the actual arrangement of the rooms is another point. Apart from the local arrangements, in what way would the registrars be in a worse position for giving effect to their knowledge of the practice?—I can only say that that was considered by Mr. Justice Kekewich and Mr. Christopher James, and their view was acquiesced in by all of us. We thought it much the best for us to be in an independent position.

46,755. That is your opinion, but I am anxious to get at your reasons for that opinion?—I think it is better for the office that the registrars should be an independent body.

46,756. Why would they be less independent?—I think if you are attached to one group you rather lose your independence. Do not you think so?

46,757. But you would not be attached to one particular group?—You would be for the whole of one term attached to one set of masters only.

46,758. But you would go on to another group in the next term?—I think myself it is far better to remain as it is—an independent body—and I think the profession would like it, too.

46,759. You do not give any reasons for that opinion?—I cannot give any reason, except that I think that is the opinion of all the judges, and was the opinion of Mr. Justice Kekewich and Mr. Christopher James.

46,760. And of yourself?—And of myself.

46,761. But you cannot give any of the reasons which have induced you to form that opinion?—I think it is better for the office that it should be in an independent position and be as it is. That is my opinion after my long experience.

46,762. Are you satisfied with the present system of the appointment of clerks. They are appointed by the Lord Chancellor, I think?—Yes.

46,763. Does the Lord Chancellor consult you as regards candidates?—No, not as regards the appointment of principal clerks. I am consulted as regards the appointment of assistant clerks, that is to say, I have the names proposed sent to me and the candidate comes to me, and I have to report upon whether I think he is a desirable candidate, but I am not consulted with regard to the principal clerks.

46,764. Do you see the candidates?—He sends me the principal clerks whom he does appoint, but I have to report to him upon the assistant clerks.

46,765. Are you consulted with regard to promotion from the third class to the second class?—There is no promotion from third class to second class clerkships in our office.

46,766. How do you mean?—None of the third class can ever become second class. The principal clerks are appointed from second class clerks now.

46,767. The principal clerks, that is to say, the clerks to registrars and second class clerks combined, are never promoted from the third class?—Never. They are different. The third class clerk has only to pass the ordinary Civil Service examination.

46,768. Then there is no opening to third class clerks for promotion at all?—Not in our office.

46,769. They are limited for the whole of their lives to a maximum of 200l.?—And as regards that, I may say that they are anxious to get away from our office for that reason, and to get to the masters' department, where they can rise to be first class clerks.

46,770. That is not unnatural?—That is not unnatural; I have encouraged it and recommended several of my own department to go.

46,771. Would not that be one advantage of amalgamation of the two offices, that it would open an avenue of promotion to third class clerks?—It would in that way, so far as they are concerned.

46,772. As regards the appointment of principal clerks, you are not consulted by the Lord Chancellor?—I am not.

46,773. The candidates are not sent to you to report upon?—They are not. If I may be permitted to say so, I think that is a very hard part of the appointment to third class clerks. I have been trying to get for the last two years my assistant clerk something extra. He got to his maximum in 1896; he is a splendid man, and he has served as assistant clerk to two senior registrars, Mr. Pemberton and now myself. He is most efficient, and I could not do without him. I have been trying to get him something extra. I tried to get him made second class clerk, without success, and now I have been trying to get him an extra 50l. a year, but have not succeeded. I think it is hard where a head of a department recognises a specially good and worthy person, not to be able to get him anything extra at all. Sir Kenneth Muir Mackenzie said he hoped to get something extra for him, but has not been able to get anything out of the Treasury.

46,774. Your department is unique in that respect—that the third class clerks have no opportunity for promotion in the office?—I think so.

46,775. What about the hours of attendance for the clerks? What are the regular office hours?—They come at a quarter past 10 and sign a book at a quarter past 10, and my clerk goes and gets the books. There are three books, one signed by the principal clerks, one signed by the assistant clerks, and one signed by the entry, petition, and cause clerks. Those books are fetched away about a quarter past 10 and a line is drawn. I give them usually about five minutes grace, and anybody who arrives after that time must come into my room and sign the book below the line.

46,776. What is the hour of leaving in the afternoon?—The office hour is until 4 o'clock, but a great many of them do not leave till after that, because they do not leave as a rule until their registrars do. Some of the registrars in court do not come out of court until a quarter past 4, and others of them until half-past 4, so they do not get away very often until half-past 4 or a quarter to 5.

46,777. Are those the usual hours for your personal work?—My usual practice is to get there four days a week at 10 o'clock or sometimes a quarter to 10. I was there at a quarter to 10 this morning; it depends upon what time the judge sits.

46,778. At what time do you generally leave?—At 4, or between 4 and half-past, if I am not in court. If I am in court then I leave on getting out of court. It depends how late the judge sits. Then I change my clothes and probably have one or two people to see.

46,779. So the normal hours of the clerks may be said to be from a quarter past 10 to 4, and sometimes a little later?—Yes.

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46,780. Do they ever get away before 4?—No, except by leave of their registrar.

46,781. What are there vacations?—They get the vacations which we all get.

46,782. The regular legal vacation?—We do not get away from the Long Vacation until at least a week after the judges.

46,783. Do you have to return before the judges resume?—No, we do not return until the judges come back—the 12th October.

46,784. Is there any vacation work at all?—Yes.

46,785. How many registrars are in attendance?—Two registrars, two principal clerks, and two assistant clerks divide the vacation work between them. I was vacation registrar this year.

46,786. Does that mean attendance every day?—Attendance every day. I did not go myself on Saturdays, but one of us had to be there. I sent my principal clerk on Saturdays, but, as a rule, it means Saturdays as well.

46,787. And the registrars and the principal clerks take it in rotation to do the vacation duty?—A fresh appointment would take the vacation work first; otherwise, it is done by rotation.

46,788. Does that apply also to the short vacations?—Yes, it applies to short vacations as well. The Christmas Vacation is a fortnight, and so the two vacation registrars for the year each take a week.

46,789. And that applies to clerks too?—That applies to clerks too.

46,790. Does that apply to the assistant clerks?—Yes.

46,791. At present there is no fixed age for retirement, either for registrars or for their clerks?—No; under the Act it is “during good behaviour,” except that I should add, as I think I said last time, that the last appointment of Mr. Jolly as registrar, by direction of the Lord Chancellor, is to terminate if and when he attains the age of 70.

46,792. Are you in favour of fixing an age for retirement? Dealing with the case of the registrars themselves first, would there be an advantage, do you consider, in fixing an age for retirement, as has been done in the case of Mr. Jolly?—I do not see that anybody could find fault with fixing 70 years as the age for retirement.

46,793. As regards the clerks, what do you consider the age of retirement should be? I suppose in the case of principal clerks the question would very seldom arise under the present system?—It would not arise except in case of illness.

46,794. I see there is one second class clerk who is now of the age of 65. How does that arise?—He is a very old officer. He was at the Rolls in the old days, and came from the Rolls to our office when the Petitions of Course to the Rolls were abolished. He is a most valuable man; he attends to all the Petitions of Course; he has a great knowledge of practice of that kind. The Kekewich Committee recommended that that seat should be abolished and should be merged in the rest of the office. They said: “The work of the petition and entry clerks will be very largely reduced if Orders of Course are made and drawn up in chambers”—that has not been done—and all orders are printed as suggested “in this report; and apart from this, we see no reason to doubt that the duties of these clerks may be assigned to some of the staff according to our scheme.” I thought myself that what work was done by a petition clerk could be done by the assistant clerks, but I have been unable to arrange it so, because this particular petition clerk, a very valuable man of some age who has been there all these years, took it as a personal grievance if he were to be changed from his work, so I have been unable to effect the alteration I intended to make, during his term of office.

46,795. Do you see any reason why the ordinary Civil Service rule of power to retire at 60 and compulsory retirement at 65 should not be applied in the office, apart from the registrars themselves?—I do not see any reason why it should not apply.

46,796. Would there be some advantages in applying it?—I should qualify that by saying, “to any new appointments”—not as regards the older men.

46,797. Apart from any question of existing rights, as a matter of principle, you see no reason to urge against it?—None whatever.

46,798. I see the Kekewich Committee also recommended that appointments and promotions should be made by selection and not by seniority, and that power should be taken to remove any officer if sufficient cause were shown. Dealing with the first point, that is a matter which directly concerns the Lord Chancellor and not yourself?—Yes.

46,799. Are you in favour of that recommendation of the Kekewich Committee being carried out?—No, I am not in favour of it.

46,800. You would adhere to pure seniority?—I think so. Of course the Act of Parliament provides that the senior registrar could raise a valid objection “to the satisfaction of the Lord Chancellor,” but I have never known it done, and I can speak from the year 1872.

46,801. Does the section require that the senior clerk should be appointed?—The senior clerk to the registrars, according to the section: “and that on the death, resignation, promotion, or removal of the junior registrar for the time being, the vacancy thereby occasioned shall be filled up by the senior of the clerks to the registrars for the time being, to whom no sufficient objection to the satisfaction of the Lord Chancellor shall be made.”

46,802. Apart from the question of the statute, do you consider that it is desirable from the practical point of view, that the appointment should be by seniority or by selection?—I think it ought to go by seniority.

46,803. Why?—All these men have been through their articles as solicitors; they are solicitors. Supposing they are university men, they have been up at Oxford and Cambridge and taken their degree and subsequently passed two legal examinations.

46,804. (*Mr. Coward.*) They pass one if they have been at the university?—No, they pass the Intermediate and the Final. They have the Intermediate Examination after the first year.

46,805. Are you quite sure about that?—Yes, quite certain. If they are non-university men they have to pass three examinations—a preliminary on general knowledge, and two legal examinations.

46,806. If they have passed in law at the university, do they escape the Intermediate?—I believe that is so, but I am not quite sure.

46,807. (*Chairman.*) Among a body of men who have passed certain examinations, there are usually some men who are better fitted than others for performing important work?—That is so; I quite admit it.

46,808. Is it not desirable in the public interest that those who are best fitted for performing the important work should be promoted to the most important posts?—I think it very difficult to make a selection.

46,809. (*Bishop of Southwark.*) The difference between them is not so great as all that?—It is not sufficiently great to signify.

46,810. (*Chairman.*) Another recommendation of the Kekewich Committee was that the senior registrar should be given greater powers of control over the work of registrars in general. That was partly combined with their recommendation about groups. They proposed that the senior registrar of each group should be responsible for the work of each group, and that the chief registrar should have certain special duties imposed upon him. Do you consider that the senior registrar should have greater powers and responsibility?—I consider I have all the powers I want. I regulate the office, and they all come to me if any question arises in the office, and I think they are extremely good about attending to all my regulations on matters connected with the office.

46,811. (*Mr. Boutwood.*) Can you give orders to the other registrars?—I do not interfere between them in their own work, but the general supervision of the office is under my direction.

46,812. (*Chairman.*) The organisation of the office, I think, is that certain particular clerks are attached to each registrar?—That is so.

46,813. As regards the discipline of those clerks, is that under the control of the registrar to whom they

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are attached, or is it under the control of the senior registrar?—I consider that it is under the control of the senior registrar, but I think the registrar to whom they are attached would come to me if he has anything to say or to find fault with. I have always found myself that it is best not to interfere between a registrar and his clerk, unless I am compelled to do so, about any particular matter. As a rule, I think it works very smoothly.

46,814. As regards the other registrars, you have no responsibility for their work?—Nothing as regards their work.

46,815. They are entirely responsible for their own work?—Yes. I wrote to Sir Kenneth Muir Mackenzie a letter on the 25th July 1907 on that subject. This is the letter: "The senior registrar is at present recognised as having the entire control of the office, and conducts, as you know, the official correspondence, and he reports on all questions connected with the conduct and business of the office as a whole, but he is not, as the report says, responsible for his colleagues, and it is difficult to see how he could be so responsible, and I am sure it would lead to considerable friction if he was to interfere, even if he had time to do so, with his colleagues in the conduct of their own work. They are all men of some age and long experience, and quite able to manage their respective departments. At the same time they at present constantly refer to the senior registrar on every sort of question of practice or management, and the senior registrar from time to time calls meetings of registrars to deal with the matters referred to him." That exactly expresses my view.

46,816. You told us that the recommendation of the Kekewich Committee as regards the attendance of clerks in court in place of registrars in certain cases has been carried out?—It has.

46,817. Have any other recommendations of that committee been carried out?—I have stated in my memorandum in reply to your questions exactly what has been carried out. The number of registrars, in the first place, has been reduced and is now nine, and I am given to understand that the reduction contemplated is to eight registrars and eight clerks and eight assistant clerks.

46,818. On that point the recommendation of the Kekewich Committee was that it should be reduced to six?—But that was not acceded to. Sir Kenneth Muir Mackenzie was kind enough to ask me for my opinion on the report of the Kekewich Committee. I wrote him my opinion on the matter. I have a letter from Sir Kenneth Muir Mackenzie dated 14th April 1908, saying that there had been a battle over the Kekewich Report, but the Treasury had agreed to treat the office on the basis of nine registrars, nine clerks, and nine assistant clerks.

46,819. In fact, it was decided not to carry out that recommendation?—Yes.

46,820. Apart from the recommendation about clerks sitting in court in certain cases, has any other recommendation been carried out?—They said in the report something about delay in drawing orders, and then Order 62, Rule 14a, provided that orders should be drawn up and entered in 14 days. My observation about that is, that though it is not practicable to carry out this rule strictly in case of long and complicated orders, it has had the good effect of making solicitors hurry up. As I said, the delay in drawing up orders was principally their fault, as they did not trouble to leave their briefs and get the orders through; but now, I may say, there are no complaints that I know of as to any delay.

46,821. There is no delay at present?—None.

46,822. So that recommendation has not been carried out, but the object has been attained in other ways?—I think, in consequence of the recommendation, Mr. Justice Parker then suggested the rule which carried out one of the suggestions they made about the delay; otherwise, none of the other recommendations have been carried out.

46,823. One recommendation at the end of the report was to this effect: "The use of shorthand writing facilitates despatch in all departments of

" business, and we venture to suggest, as a matter for consideration, whether it would not be well to promote it, at least among the assistant clerks." Have any steps been taken to give effect to that recommendation?—None; and I do not consider that we want shorthand writing in our office, as the assistant clerks have no use for it.

46,824. (*Bishop of Southwark*.) I am not quite clear about the difference of the work as between the third class clerks and the second class clerks. I understood you to say that no third class clerk could possibly get promoted?—Not in our department, beyond the maximum of 200*l.* a year. He is appointed at 100*l.*, and goes up by increments of 10*l.* to 200*l.*, and that is his maximum.

46,825. He can never become a second class clerk?—Not in our office.

46,826. Is that because the work of the second class clerk is essentially different?—He is a higher grade of clerk. I think for some of the third class clerks 200*l.* a year is quite enough; but there are some who, I think, might well be promoted to a higher salary. Even if they were not made second class clerks they ought to get some addition to their salary.

46,827. I will put the question in another way. Do you think that the work could be done by having a larger number of third class clerks and having no second class clerks?—No.

46,828. The second class clerk's work is something quite distinct?—Quite of a higher calibre.

46,829. In what way would you say higher?—I do not know that I quite follow the question. Only one particular class of work is assigned to third class clerks. The second class clerks are all principal clerks, and are on a different footing.

46,830. (*Mr. Matheson*.) All of them are qualified solicitors?—All qualified solicitors, except the three I have mentioned, who are not qualified.

46,831. (*Bishop of Southwark*.) That is to say, the second class clerks have a legal qualification?—The second class clerks should have according to the Act, but, as I pointed out, three have been appointed who had no legal qualification.

46,832. And their work very soon becomes responsible work that requires some legal knowledge?—Yes. Third class clerks would not be capable of doing second class clerk's work in our office.

46,833. I wanted to be clear about that?—That is quite clear.

46,834. (*Mr. Matheson*.) You express yourself as against promotion by selection. Does not that really rather suggest that the work of a registrar does not require special ability beyond the qualification of being a competent solicitor?—Well, I suppose some men make better registrars than others, but I think it would be very difficult to select from two principal clerks. I should probably consider one a better man than the other, but it would be difficult to say, and I think the difference would not be so great as to warrant putting the lower man over the head of the man above him.

46,835. No doubt the person who is responsible for promotion has a disagreeable task, but would you say in your experience of the office that you have not known very considerable differences in ability between the different clerks?—Undoubtedly.

46,836. You have known differences?—Yes.

46,837. (*Mr. Shipley*.) Who was it who appointed those three gentlemen who had no legal qualification?—I got a letter from Sir Kenneth Muir Mackenzie to say that the Lord Chancellor had appointed these unqualified men as second class clerks in the office.

46,838. Which Lord Chancellor was it?—The first time an unqualified clerk was appointed was in 1906, and he is now third clerk—Mr. Melville. I have a letter here on the subject. We rather took exception to this appointment, and I have found a letter in which Sir Kenneth wrote to Mr. Pemberton, the senior registrar at the time, to say that he was not a solicitor and that one of us had expressed some surprise at the appointment, and he went on to say: "I have always understood that it was thought a good thing to diminish the number of clerks with titles to the

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"registrarship, and I have always understood that the new class of second class clerks were an entirely independent body who might, if qualified, be appointed principal clerk, as Mr. Jolly was, on their merits, but not with any exclusive rights. I doubt whether, as the law now stands, Mr. Melville could be advanced to a principal clerkship, but there is nothing against his being appointed to a second class clerkship in the first instance, and, if it emphasises the distinction between the clerks and the others, so much the better. I am sorry I did not consult you, but I thought I knew your views."

46,839. (Chairman.) Mr. Melville has since been appointed a clerk to a registrar?—He has since. He is now third on the list, but if the Act stands he and two others, as I have explained, never can become registrars.

46,840. (Mr. Graham Wallas.) What are the names of the two others?—More and Timmis. Those three since they have been in the office, I may say, have been called to the Bar.

46,841. (Mr. Holt.) Does that debar them from becoming registrars?—At present under the Act they are not qualified unless they have passed their articles in a solicitor's office.

46,842. (Chairman.) Do you consider that their appointment as clerks to registrars was illegal?—I consider it was.

46,843. (Sir John Kempe.) I see in the ladder of qualification laid down by the Kekewich Committee for the appointment of registrars there are two alternatives suggested. The qualification for appointment as clerk is being called to the Bar or being admitted a solicitor. Then a principal clerk should have had either three years' experience in the office as a clerk, or been a practising barrister or solicitor of five years' standing. For registrars he should have three more years as principal clerk, or be a barrister or solicitor of 10 years' standing. That is to say, six years as a clerk is considered as equivalent to 10 years as a practising barrister or solicitor. Is that carried out?—No, it is not.

46,844. Why is not that carried out?—It is not for me to say. They cannot carry out that method of appointment to the office as long as this Act of Parliament stands good. They may do anything they like in regard to appointing to the office, but he cannot become a registrar under this Act unless he is a principal clerk to a registrar.

46,845. That suggested alternative was never provided for?—It has never been provided for. I might say that, personally, I see no reason why a barrister should not be qualified to be principal clerk as well as a solicitor, but it is not so according to the Act of Parliament.

46,846. You think ten years as a barrister would not qualify for a registrarship so well as six years as a clerk in the office?—I think being six years in the office gives him the information necessary to draw up the orders. He has been trained up to draw these rather technical orders, so it is better for him to prepare for the position of registrar by rising up in the office than to appoint anybody from outside. In fact, I do not think anybody from outside could do our work; it would be impossible.

46,847. Not even with legal training?—Not even with legal training.

46,848. (Mr. Coward.) You have been a registrar for some 26 years?—Yes.

46,849. And you were a solicitor before that?—I never was a solicitor. I passed my examination.

46,850. But you were articled to a solicitor?—Yes, I was articled.

46,851. And then you got your appointment at once?—I did.

46,852. The training that the registrar and the master on the Chancery side go through is identical?—Identical.

46,853. They are both solicitors?—Both.

46,854. And I suppose you would agree that you could not have a better training for the post of registrar than that of a solicitor?—I quite agree, it is the best.

46,855. It certainly would be a better training than that of the Bar for that particular post?—Much better.

46,856. When you were appointed, did it take you

long, with the aid of a book called "Seton," to undertake your duties as registrar? Was it very troublesome to you with the aid of that book, which, no doubt, you know?—I know it well. I assisted in supplying forms and information for two editions; I know it perfectly.

46,857. Nobody better. You have to know it from A to Z?—You must know it.

46,858. Is that the foundation of the whole thing? The registrar must be familiar with his Seton, or he is nowhere?—That is exactly it.

46,859. Of course you must qualify for that, and it may take you a long time to know your Seton properly?—Yes.

46,860. But when you know it, if you have intelligence and *savoir faire*, you are competent to be registrar, I think?—Yes; but there are so many new questions always cropping up. Even now I never find a day without something fresh coming up.

46,861. Some modifications of a Seton decree?—Yes, there are always modifications.

46,862. That is what it is; it is the modification of a Seton decree?—New points are arising so as to vary those decrees.

46,863. You have the little *tournure de phrase*?—You also want to know all the Chancery Fund rules with regard to money orders. You must have those at your fingers' ends as well.

46,864. The whole point of my observation is that there is no distinction between the training of the master and of the registrar?—No.

46,865. Therefore, one would find it rather difficult to see why there should not be an amalgamation of the offices?—Amalgamation could be done undoubtedly. I do not want to say it could not be done, but the masters are not competent to draw our orders and you would not appoint us masters.

46,866. It would not be done?—It could not be done.

46,867. The orders would not be drawn probably with so much skill or science?—The masters are unable to draw our orders.

46,868. It is that *tournure de phrase* that distinguishes it?—But the masters would be unable to draw our orders, and also they would not have time to do so.

46,869. Not between 10 and 4? That is the very point I was coming to. You never practised as a solicitor?—No, I never practised.

46,870. But you went through the curriculum; you were an articled clerk?—I was an articled clerk.

46,871. Probably you did not work so hard then as you would have done if you had been earning your living?—I should like to add that I remained four years in the solicitor's office after my articles.

46,872. Do you mind saying in whose office it was?—Walters, Young & Co.

46,873. I suppose you were very qualified?—I thought I was.

46,874. In that office, what sort of hours did you keep?—I would get there about 10 and stop till about half-past 5.

46,875. You were not over-worked. I suppose for a solicitor's office you would not call those very long hours. Do not you call them very easy hours?—I think it is a fair time—10 to half-past 5.

46,876. Some have to get down to the office a good time before 10, and do not leave until 7 o'clock at night and have some work to do afterwards?—Quite so.

46,877. So if you compare the work of the masters with the ordinary work of a solicitor, you would find that it was greatly in favour of the master. It would not hurt the master to do two or three hours a day more, would it?—I should not like to say that. I think a good many of the masters stop there until about 5 o'clock.

46,878. Some of them may stop until 5, but I rather think you will find that some of them go at half-past 3?—I do not know anything about the masters. We do not.

46,879. One word about the vacation. There is only one registrar at a time in attendance in vacation?—Quite so.

46,880. That is to say, two of you are in attendance, one for half the time, and the other for the rest of it?

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—Yes. I should like to qualify that by saying that if one is ill he calls upon the other man to do it. We have to do it between us, but I have found one enough, and I wrote and told Sir Kenneth Muir Mackenzie so when he asked me.

46,881. There is only one judge to do both common law and Chancery work?—That is so.

46,882. The result of that is that the work cannot be very onerous?—No, it is not; and I have found one vacation registrar sufficient.

46,883. With regard to the third class clerks, can you tell me what they do? What does your third class clerk do?—He is a kind of go-between between the public and me. He sees all the solicitors when they bespeak orders; he keeps a book with all the orders bespoken, and the names of the solicitors. When the orders are bespoken, he makes an entry, when it is given out for drafting another entry, when it comes back from the stationers another entry, when it goes out to the solicitors another entry, when it comes back from the solicitors, and when it is approved, and so on, in separate columns other entries. He arranges my appointments for me. Every day I am not in court I have a string of appointments. He arranges when I am to be seen, and brings my papers into court, sees after the stamping of my orders. He is backwards and forwards to court with papers when I am in court, because I am doing work all the time, and always having papers brought in and out, which I do scrappily, and as well as I can, otherwise one would never get through one's work.

46,884. (*Mr. Graham Wallas.*) You have attached to you, I understand, a clerk to the registrar and a third class clerk?—That is so.

46,885. Which of those gentlemen is the clerk to the registrar?—He is my principal clerk.

46,886. What is his name?—Mr. Garrett, son of the police magistrate.

46,887. He was appointed in 1904 at the age of 25 to his present post?—No doubt that is correct.

46,888. He was appointed, you told us, under a tacit understanding that he was to proceed in due time to the registrarship?—I was speaking to him about that the other day. I think that they had undoubtedly a tacit understanding that they would succeed to the registrarship.

46,889. You will understand that to a tacit understanding there must be two parties?—Yes. I suppose he must have been interviewed by Sir Kenneth Muir Mackenzie. He said to me that if he had not had that understanding, if he had not thought, or at any rate understood, that he would become a registrar, he would never have taken the appointment.

46,890. But to a tacit understanding there must be two parties, of which Mr. Garrett must be one. Who is the other?—I do not know. It is all done by Sir Kenneth Muir Mackenzie.

46,891. Your statement is that Sir Kenneth Muir Mackenzie entered into a tacit understanding?—Please do not say that. I do not think so at all. I know nothing at all about that.

46,892. But to a tacit understanding there must be two parties?—I cannot say.

46,893. I ask you that question: Do you agree that to a tacit understanding there must be two parties?—Undoubtedly.

46,894. Was Mr. Garrett one of the parties?—I suppose he was. I imagine that he understood—I read to him what I was going to say to you and he agreed to it—that there was a tacit understanding that he should succeed to the registrarship.

46,895. You meant a tacit understanding between two parties, of whom Mr. Garrett was one. Now I want to know who was the other one?—Sir Kenneth Mackenzie.

46,896. You say there was a tacit understanding?—I do not say there was one. He says he thought there was one, and I thought it was a tacit understanding that all the clerks appointed to this office, having regard to this Act of Parliament, should succeed to the registrarship.

46,897. You are responsible as senior registrar for the general organisation of the office?—I am.

46,898. Responsible to whom?—Responsible to the Lord Chancellor.

46,899. If you think it would be to the advantage of the office that any official should alter the nature of his work, you are responsible to the Lord Chancellor for seeing that that advantageous arrangement is carried out?—Undoubtedly.

46,900. You have told us that you thought there was an advantage to the office that Mr. Hayes's work should be changed?—I do not think so in the present circumstances. I think he has been so long at his present work which, having regard to his age, he does so extremely well, that I do not propose to make the alteration until he has retired.

46,901. You thought it would have been to the advantage of the office if it had not been that he objected?—I do not think there is much in it myself, because we have arranged it so that one of the assistant clerks takes it in turn to go and attend to the seat to which his successor would be appointed. Under the circumstances we have only eight assistant clerks, because one of the assistant clerks was made entry clerk. When that vacancy occurred we tried to get another assistant clerk appointed, to raise the number to nine, but Sir Kenneth Muir Mackenzie demurred to that because he thought the recommendation was that the petition clerk's work could have been absorbed amongst the others. I think it could have been done, but, having regard to the length of service of the present petition clerk in his particular department—and he came to me and really made himself quite ill over it—I said, "Well, during your time it shall remain as it is." So what I do is I send up one assistant clerk to the registrar without a clerk. I made out a rota so that each registrar, except myself, dispenses with his assistant clerk for a certain portion of each day in the week. So Hayes retains his post during the length of his stay in the office.

46,902. You say you are consulted with regard to the appointment of all the assistant clerks?—That is a new regulation. I had a letter from Sir Kenneth Muir Mackenzie to say that in future all assistant clerks before being appointed to the office would be sent to me, thus following the practice as it is in the master's office.

46,903. About when was the date of that letter?—I should think it was at the time of the appointment of the last assistant clerk—about two years ago.

46,904. Two assistant clerks—Mr. Hardy and Mr. Lewis—were appointed in March 1913. Were you consulted about their appointments?—Those were two very experienced writers who had been acting as assistant clerks on many occasions when one of our assistant clerks was ill, and they thoroughly knew the work of an assistant clerk. So in Mr. Lewis's case Mr. Registrar Leach, for whom he had done work, wrote and recommended him for the appointment. As regards Mr. Hardy, I think Mr. Pemberton, the senior registrar at the time, wrote and asked for his appointment, he being so accustomed to do the work, that they preferred having him to fill the post permanently rather than having a stranger from outside.

46,905. They were at their appointment aged 54 in one case and 55 in the other?—They were two writers.

46,906. Did that appointment give them any pension rights?—That would be so undoubtedly, but they only get $\frac{1}{60}$ th for every year of service now, and they were writers.

46,907. You said you had attempted to get 50l. a year increase for your assistant clerk. What is his name?—Collyer.

46,908. His age is 62?—Yes.

46,909. The office is really organised very much as if it were nine separate small departments, each with a registrar, a clerk to the registrar, and another clerk?—Exactly.

46,910. Therefore in functions and work there is no difference between the clerks to registrars and those described here as second class clerks?—The second class clerks occupy the position of clerks to registrars. The first six are supposed to be on the establishment, the others are only second class clerks. Until they

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become one of the six they are not supposed to be on the establishment.

46,911. Their difference is not a difference of function at all, but solely a difference of pay?—That is it.

46,912. (*Mr. Boutwood.*) Is there any examination for your second class clerks?—None.

46,913. It is pure nomination?—It is pure nomination. I have been asked about that, and I deprecate any examination; I do not think it necessary, because they are either university men or have been through their articles as solicitors.

46,914. Do you bring men in sometimes to the first class?—No. In our office we do not distinguish them as "First Class Clerks"; in the masters' offices they do.

46,915. With regard to your principal clerks—the six clerks to registrars—did they all come from the second class, or did some come straight from outside?—They are appointed first in the office as second class clerks and rise up.

46,916. Is there any considerable difference between the sort of work your second class clerks do and the work of the second class clerks in the other legal offices?—Yes, a great deal of difference. Our men are all qualified solicitors, and they draw these technical orders. In none of the other offices do they do such technical work as we do.

46,917. There is one Chancery document which I see a great deal of—those long schemes regulating charitable endowments. Who actually draws those?—We do not draw any schemes regulating charitable endowments at all.

46,918. The Court often makes schemes?—Yes, the Court makes orders to confirm schemes. We have those orders to draw.

46,919. Who drafts the schemes?—That would probably be done by counsel and come up from the masters to us.

46,920. Then you simply draft the confirming order?—We draft the confirming order.

46,921. (*Mr. Holt.*) I understand that each registrar has a clerk?—Each registrar has a principal clerk and an assistant clerk.

46,922. Then you have four second class clerks altogether, three of whom act as principal clerks?—Three second class clerks. The first six clerks are on the establishment.

46,923. One of those second class clerks is Mr. Welbank?—You are talking of the assistant clerks. I thought you were talking of the principal clerks. Mr. Welbank is our entry clerk. He is a second class clerk.

46,924. If I leave out Mr. Hayes and Mr. Welbank there are only eight clerks. Is that wrong?—You are quite right. There are only eight clerks in the list, but we have got a ninth who does not appear here because he is not on the establishment. He is a man named Barnes. When there was a vacancy here on the last appointment Sir Kenneth Muir Mackenzie sent to me Barnes, who was at the House of Lords, a son of Mr. Thomas Barnes, who is clerk in the Companies Winding-up Branch, and he wrote to me to say, "I am sending down to you Barnes, a very nice fellow, to act temporarily as second class clerk." He has never received any increase of pay, and is not on the establishment at all. I went to see the Lord Chancellor himself on the subject of the appointment to the office, and the Lord Chancellor told me that he did not think it expedient to fill up this vacancy until this Commission had reported.

46,925. So that Mr. Barnes is holding the place temporarily?—He holds a second class clerkship at 250*l.* a year, and has not got any increase at all yet.

46,926. I understand that Mr. Blaker and Mr. Timmis will automatically become principal clerks?—They will become principal clerks automatically.

46,927. And then, having once got this appointment as second class clerks, they only require longevity to become senior registrars?—There only requires to be a vacancy for one of them to be a principal clerk.

46,928. If they can live long enough they become senior registrar?—Both cannot, because Mr. Timmis is not qualified.

46,929. Mr. Blaker can become senior registrar if he can manage to live long enough?—He can.

46,930. Then, if one once becomes a second class clerk, all one has to do is to live long enough, and you get to the highest place?—If you are qualified as a solicitor, but only with that qualification.

46,931. You told us that you think that, in spite of the letter written by Sir Kenneth Muir Mackenzie, these officials have a vested right to become registrars?—I think myself they came into the office under the impression that they would become registrars when vacancies occurred.

46,932. But does not a person who accepts an office with a right, which depends entirely on statute, take the chance of the statute being repealed?—He must do so.

46,933. Is not that his particular risk—that the statute may be altered?—Of course he must run that risk, undoubtedly.

46,934. And when he has received such a notice as that contained in Sir Kenneth Muir Mackenzie's letter, has he any ground of complaint if the statute is altered?—I think it would be very hard upon him.

46,935. Supposing you accept a position in which your vested interest depends upon a statute, and at the time of accepting that position, you have notice that there is an intention to procure the repeal of that statute, or that persons are agitating to repeal that statute, have you any ground of complaint if the agitation is successful?—I think they must take the risk.

46,936. It is a fair risk to take?—Yes, I think they must take it.

46,937. Do you consider that the notice to Mr. Jolly, that he must retire at 70, is binding on him?—I very much doubt it, because he holds his registrarship during good behaviour under the Act of Parliament. I put it in the order acting on my instructions.

46,938. Does "good behaviour" include capacity to perform your duties properly?—Well, if a man was incapacitated from performing his duties, he would receive notice that he was no longer required. Retirement on the ground of health I am talking of now. I have known, since I have been in the office, two or three men who retired in consequence of ill-health, and one or two I know were so unwell that they could not petition for their retirement.

46,939. Were they retired under pressure?—I have known men retire under pressure.

46,940. (*Chairman.*) Does not the Act give power to retire a registrar who is incapacitated from performing his duties personally, in section 48, which says: "Registrars, and clerks to the registrars, appointed and to be appointed under this Act, shall hold their respective offices during their good behaviour, and so long as they shall personally give their attendance upon their respective duties, and shall conduct themselves honestly and faithfully in the due execution of the duties of their said offices respectively." That would appear to give power to remove a registrar who is so far incapacitated that he cannot attend to his duties personally?—Quite so, and it has been done.

46,941. (*Mr. Holt.*) You told us you had suggested that Mr. Collyer should be promoted to be a second class clerk?—My original suggestion was that I thought he had been such a long time in the office that he should be promoted to a second class clerkship. That failed. Sir Kenneth Muir Mackenzie said that there were already two, Mr. Hayes and Mr. Welbank, and I could not have another, and then I suggested to him that, as he was my clerk, considering his length of service and what he did for me, and that in fact he had reached his maximum in 1896, he was deserving of some extra pay. An extra 50*l.* a year had been given to the senior master's clerk, and I thought that was a strong reason why my clerk should have the same.

46,942. Do I understand that if Mr. Hayes or Mr. Welbank had disappeared there might have been no objection to promoting Mr. Collyer to a second class clerkship?—I think I could have got him promoted.

46,943. Therefore there would be promotion open to a third class clerk if a vacancy occurred in one of those two places?—There would, by special application

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It would not be except by special application. I forget about Mr. Hayes, but certainly in the case of Mr. Welbank he was recommended for a second class clerkship when he went to the entry seat.

46,944. Had he previously been a third class clerk?—Yes.

46,945. In your department?—Yes, he was clerk to Mr. Registrar Church.

46,946. I understand that you yourself were a clerk for about 17 years?—I was not really. I was deputy registrar for a man who was ill for more than two years, so I really became registrar after about 13½ years.

46,947. Could a deputy registrar be appointed now?—There has not been one now for a long time, I was twice deputy registrar, once for Mr. Registrar King for about six weeks, and once for Mr. Registrar Coe, who was ill, and whose leave the Lord Chancellor extended for about two years.

46,948. When you were deputy registrar, did you receive the salary of a clerk or a registrar?—I received the salary of a registrar for the time I was doing his work, so he would be the gainer for the time of the vacation. I only got so much a month while performing the duty.

46,949. Therefore the important part of your experience in doing the work of a registrar was what you obtained whilst you were a clerk?—Precisely. I may say that I am teaching my clerk all the time. He comes in to see me every day about orders. I am continually

explaining orders to him, and telling him about orders, and thus training him up.

46,950. If you spend all that time training a man, is it absolutely necessary that he should be a solicitor?—He must have a knowledge of law. I consider, to qualify a man for our office, he ought to be either a solicitor or called to the Bar. He must have a knowledge of law before he comes to us.

46,951. Supposing a man of 25 years of age, having a knowledge of law in every sense of the word as a solicitor, or being called to the Bar, is taken on as a second class clerk, would he then have sufficient knowledge to enable him to proceed to the position of registrar?—No.

46,952. With the training as clerk would he?—Certainly.

46,953. Then it is not necessary that he should have been a solicitor so long as he comes primed with knowledge of the law?—I think he must have knowledge of the law. The only way you can get knowledge of the law is by going through articles or being called to the Bar.

46,954. Quite so, but there is a considerable difference between the two?—The advantage of having a solicitor is this: The clerks to solicitors are perambulating our office all day long, and these articulated clerks come before us with the Chancery clerks of different firms. They come round and get information as to our office, and acquire a great deal of knowledge before they come to us.

Mr. WILLIS GILBERT OAKSHOTT, called and examined,

46,955. (*Chairman.*) You are managing clerk in the office of Messrs. Sharpe, Pritchard & Company?—Yes.

46,956. How long have you been in a solicitor's office?—Over 40 years.

46,957. As managing clerk, how long?—Just about 34 years.

46,958. To what branches does your work specially relate?—The Chancery Division, lunacy matters, and company work.

46,959. Does your work bring you largely in contact with the offices of the courts?—A great part of my working life exists in the courts and chambers. My work as a solicitor's clerk necessitates my being in court or chambers each day the Court is sitting.

46,960. Have you also work with the Chancery registrars?—Yes, I know the Chancery registrars very well.

46,961. And with the taxing masters?—Certainly.

46,962. Before dealing with particular points, will you give us your opinion generally as to whether the work is done satisfactorily and rapidly?—That is rather a wide subject. I think that in recent years there has been a very great improvement as regards delay. There is no delay to speak of now on the Chancery side.

46,963. Neither in chambers nor in the Registrars Office?—No, in neither. Some chambers are better than others; but, speaking generally, they are very up-to-date and well up to time.

46,964. How soon can you get an appointment in chambers?—In some cases you can get one almost the next day. Certainly in some chambers you can get an afternoon appointment in two or three days; in others you have to wait a week or ten days, perhaps a fortnight.

46,965. What is the reason for that variation?—I think it is only the constitution of the different individual masters; some are slow, and others quick.

46,966. Some are quicker than others?—I think so.

46,967. And with regard to the Registrars Office what do you say?—The only delay there is because you cannot get an appointment, as the registrar is sitting in court. If they are in chambers you can see them almost any day. I have no difficulty at all there.

46,968. In your dealings with the Registrars Office, is it the registrar himself or the principal clerk you deal with mainly?—The registrar; we seldom see the principal clerk.

46,969. It would be an appointment with the registrar for settling the order?—Certainly.

46,970. There is sometimes delay in that, owing to the fact that the registrars have their work in court?—Yes, that is the only cause of delay.

46,971. Apart from the question of delay and rapidity, is the manner in which the work is done thoroughly satisfactory?—I do not want to go into any individual cases, so I do not care to deal with that personal matter, if I can help it.

46,972. Without entering into questions of individuals, are there differences in the efficiency of different officers?—Yes, great differences.

46,973. Speaking now of Chancery chambers, the efficiency and the manner in which the work is done there no doubt depends, to a considerable extent, on the office staff as well as on the masters themselves?—It does to a very great extent.

46,974. Has there been any change of recent years in the manner in which that staff is appointed?—I cannot say when; but there has been a change, I suppose, some 10 or 15 years ago.

46,975. The present system, as we have already heard from other witnesses, is that practically all the appointments are made to the third class, and that the first and second class clerkships are filled by promotion?—Yes, that is my experience.

46,976. Formerly appointments were more frequently made to the higher classes?—They were nearly always made to the higher classes. It was unusual, in my earliest recollection, for promotions to be made. It was more usual for the judge to appoint some managing clerk from outside to be first class clerk.

46,977. Will you give us your opinion on these systems; which do you think the better?—Speaking as a practical man, having work in the chambers, my opinion is that the appointments should be made from among the managing clerks. They should be appointed to either first or second class clerkships, according to their ability.

46,978. You think it is better that appointments should be made direct to those classes?—I think so. My opinion is that a third class clerk cannot possibly learn the work of a first class clerk, because his work is entirely different. He simply issues summonses and gives appointments, takes care of papers and puts them away. He cannot possibly get the experience that a first class clerk ought to have.

46,979. He sees, I suppose, a great part of the work that is going through the office?—If you mean by seeing the work seeing papers, that may be so; but he does not read them all, and cannot read them all.

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46,980. You think that the work that he does does not constitute sufficient training for the work of the higher classes?—Certainly not; he gets no training at all. He may have a bundle of notes put before him to put away, and he puts them away. He sees an appointment the master has adjourned to a particular day, and he makes a note of the appointment; but beyond that he knows nothing of what is going on, and some of the notes are not very full.

46,981. You think the work of a clerk in actual work in a solicitor's office would be the right training for a man who was going to be appointed to one of the higher classes?—Yes, because he comes before the master and discusses all sorts of points that arise before him. In some cases you have to go before a first class clerk to settle the certificate and take accounts, and so forth. You are constantly doing that. Then you go before counsel and discuss matters with him, attend consultations, and attend court and hear matters going on. You are bound to get experience which is most valuable to you in work in chambers. I do not think you could find any third class clerk who could get sufficient knowledge of these matters from his official position.

46,982. Do you find in practice that difficulty arises from the insufficient knowledge or training of third class clerks who have been appointed to the second class?—Yes. I think I may say, speaking generally, I have found it so.

46,983. You have found inconvenience from that cause?—Yes.

46,984. Then your view would lead to this: that there should be a sharp line of distinction between the third class and the higher classes; that men should be appointed to the third class without any prospect of going beyond it; and that men should be appointed direct to the second, and occasionally to the first class, for the purpose of doing the more important work?—Yes, certainly. I should qualify that in this way: there have been recent cases of appointments to third class clerks of clerks in solicitors' offices who have had a good deal of experience. I have known several recently. I do not say that those clerks would not be qualified to be promoted to second class clerkships, and afterwards to first class clerkships.

46,985. You think that if a man had had five years' experience in a solicitor's office before being appointed a third class clerk that would do?—No, five years would not do, because you may be appointed as office boy for five years and get no experience which would qualify you to be a third class clerk. I mean a man who has been in a solicitor's office for 10 or 15 years, and has had a good deal of outdoor work. I do not think every solicitor's clerk would be qualified to be appointed, but only those who had had outdoor work.

46,986. Those who have had outdoor work and served for 10 or 15 years?—Yes, I should think 10 years would be a minimum.

46,987. (*Mr. Boutwood.*) Would 100*l.* a year be enough for such a man as an initial salary?—They are taking it now, I suppose, with a view to promotion. I have known third class clerks appointed in that way who actually dropped their salary when appointed quite 50*l.* or 60*l.* a year.

46,988. (*Chairman.*) What sort of salary would a good man who had been serving for 10 years in a solicitor's office be getting, as a rule?—Well, he might be getting 150*l.* a year, but I do not think it would exceed that.

46,989. He would seldom be getting more than that?—I think not, if he started as a young man in the office and had to work his way up.

46,990. So it might be worth his while to drop to 100*l.* a year if he was going to rise to 200*l.*, with prospects of further promotion?—Yes, I should advise a young man to do that under present circumstances.

46,991. And you think a man of that sort would be suitable for subsequent promotion?—I think probably he would. I do not say all would, but you would have a chance of getting a good man.

46,992. And if he had served for ten years in the third class, doing the somewhat mechanical work that you have described, would not that have obliterated his

qualifications?—I should think a man who had that experience would take some interest in the work and follow it up.

46,993. You think that, although entering as a third class clerk, he would improve himself?—Yes, I think he would make a point of it.

46,994. But unless a man appointed to the third class had had previous experience in a solicitor's office of something like 10 or 15 years, you would not consider him suitable for further promotion?—No, I should not. Perhaps I may qualify that. He may be qualified to be appointed a second class clerk, because that is not such difficult work as the work of the first class clerk, but I certainly should not think him qualified to be a first class clerk.

46,995. In your experience, is there a pretty clear line drawn between the duties of second class and first clerks?—Yes, certainly.

46,996. All the first class clerks' duties are very decidedly more important than the second class clerks' work?—Very decidedly more important.

46,997. Which do you consider the most important of the first class clerk's duties?—Settling certificates, and taking executors' and trustees' accounts.

46,998. Settling certificates in answer to accounts and inquiries?—Yes, and particularly certificates in partition actions.

46,999. Is that done practically entirely by a first class clerk?—Yes. He is supposed to draft the certificate and settle it, and then it is referred to the master for him to go through before it is engrossed and signed.

47,000. The final responsibility is the master's?—Certainly.

47,001. But the actual responsibility of drawing it is with the first class clerk?—Yes, before it goes to the master. Very often it is submitted to a conveyancing counsel in partition actions; but in administration actions a certificate answering general inquiries, bringing out particulars of the estate and dealings with the estate and finding the parties interested, is prepared by a first class clerk, and is not submitted to a conveyancing counsel, but goes to the master in the ordinary way. Some of these inquiries are very technical—when finding out who the parties interested in the estate are, and things of that sort.

47,002. And that work is conducted by first class clerks?—Yes. The master first reads the evidence and makes notes of the effect of it, and from those notes and the evidence the first class clerk prepares the certificate.

47,003. At present promotion from the lower to the higher classes is mainly by seniority?—I understand it is according to seniority altogether now, but I may be wrong.

47,004. Do you consider that that is a right system?—I think it is a wrong system.

47,005. You think the right system would be selection by merit?—Yes, I think a man ought to be appointed according to his abilities. If there is an able man in the office appoint him, certainly if he has had the proper experience; otherwise, go outside and get a qualified man.

47,006. Is that the system that is adopted in private practice in a solicitor's office?—Yes, a man does not go from one appointment to another unless he has got ability for the work.

47,007. And not so much attention is paid to seniority unless he has the ability?—No; at least that is my experience in our office.

47,008. Would you say that the result of a system of promotion by seniority is to discourage the able men?—I would not like to go so far as that.

47,009. But a system of promotion by selection would tend more to encourage a man to make the most of his abilities?—Certainly.

47,010. Do you think that the staff in the chambers, as at present constituted, is more than sufficient for the work?—I do, certainly. I think there is great waste, if I may use that term.

47,011. Could you tell us where the waste comes in?—There is not sufficient work for them to do.

47,012. Is that in all the offices, or any particular departments?—Speaking generally, I should say all round. As I said before, in some chambers there appears

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to be less work; but I do not think there is less work, only it is done more quickly than in the others.

47,013. It has been suggested to us that one difficulty in the way of reducing the staff is that pressure comes at certain times of the day, and the staff has to be sufficient to deal with the work at those times of the day without keeping people waiting, and therefore there is some surplus of staff at slack times of the day?—I disagree with that entirely. It is not according to my experience.

47,014. Will you explain a little more fully, why you think that that is not correct?—I have never found any difficulty in times of pressure of that sort. I have never experienced it at all. I do not know what is meant by that, because the work goes on all day. There may be occasions when two or three people come in towards 4 o'clock, to get appointments or things of that sort, but they go to the third class clerks. I do not follow it at all.

47,015. You think there is no such special pressure at any particular time of the day as to make it necessary to have a special large staff to deal with it?—None whatever. The only pressure I have ever seen is just before 4 o'clock, when sometimes people who want to make appointments or to issue summonses will come into one set of chambers, and perhaps the clerk, who is wanting to get away at 4 o'clock, does not much like it.

47,016. In the Writ Department, for instance, is not the pressure mainly towards the end of the day?—I am not speaking of the Writ Department. I do not go there now. I do not issue writs, I send my juniors.

47,017. But in the Writ Department, would the writs accumulate rather towards the end of the day?—That may be. I would not like to say. As a rule I get mine out in the morning, if I can. I never keep writs back until the end of the day; but I cannot speak as to that department, because I seldom go there. I always send my juniors to issue the writs. It is really only messenger's work, as it were.

47,018. Do you think that there is any of the work at present done by the masters which could be passed down to the clerks?—Very little, I should think. In some Chancery chambers the first class clerk hears time summonses, makes orders for discovery, hears applications for stop orders, and takes summonses to proceed on orders—that is for directions to be given for answering inquiries directed by judgments. I do not think it would be safe to go beyond that.

47,019. You would not pass down any other work?—No, I cannot think of any at this particular moment. Of course, a solicitor's clerk would be very qualified to attend to these matters, because they come before him every day almost. We issue summonses to proceed and go before the master or first class clerk, and take directions as to answering the inquiries, and suggest who should answer them.

47,020. Is that work done quite efficiently by the first class clerks?—Certainly. In regard to stop orders there is not much responsibility; you only stop a fund being dealt with without notice. In the case of discovery there is a little more responsibility, but the present practice is to make orders for discovery, if asked for, almost as a matter of course, so there is not much judicial discretion there. Solicitors' clerks are very competent to deal with applications for time, because that is part of their work. We have to apply for time; we know how long it takes to prepare pleadings and to prepare affidavits, and therefore know exactly what time would be wanted or ought to be given.

47,021. Turning now to the Registrars Office, have you large dealings with that?—Yes. I am drawing up orders every day and attending appointments.

47,022. Is the work there of an extremely technical character?—Yes; you do want men there who have great knowledge of forms of orders.

47,023. (*Mr. Coward.*) Knowledge of Seton?—But Seton will not help you entirely; you must have practical experience as well. It is not a case of going to the book and taking a formal order and copying it out—oh dear, no.

47,024. (*Chairman.*) If a solicitor's clerk in Chancery work of 15 years' standing, say, were appointed a principal clerk in that office, how long would it take

him to learn the work of the office?—He would know a good deal of it before he went in.

47,025. And how long would it take him to master it?—Of course it depends on his ability.

47,026. I mean a good man?—A good man would know it almost directly.

47,027. In a month?—I think you might give him a year.

47,028. But in a year he would master it completely?—Yes, I think so.

47,029. Would this be a correct description of it: That it is work of a technical character which requires great care and accuracy, but of which the range is not very large?—Yes; I think, speaking generally, that accurately expresses the work.

47,030. So that a good man who has some knowledge of it before he goes in could master it in a limited time?—Yes, I think so. Speaking for myself, I think after I had been at work 15 years in Messrs. Sharpe's office, I could have acquired it in a very short time.

47,031. Is the work well done?—Yes, very well done, as a rule.

47,032. And there is no delay?—No, I think not now. Of course there has been great delay, but that has all been abolished, because there is a rule that you have to draw your order up in 14 days.

47,033. That was a rule introduced after Mr. Justice Kekewich's Committee had reported?—I cannot say why it was instituted. I think it was made by the judges, who found that there had been much delay in drawing up orders. Occasionally matters came before them in which they found that an order had not been drawn up for months, and there was no one responsible at that time, and then this rule was passed. I did not know that it was the result of an inquiry by a committee.

47,034. It was introduced in 1907 or 1908?—Quite recently—some few years ago.

47,035. That was, I think, after Mr. Justice Kekewich's Committee had sat on the subject; but you are not acquainted with that?—I am afraid not.

47,036. We have heard that on the Common Law side orders in the great majority of cases are drawn up by the solicitors and then passed in the office?—Mr. Coward knows more about that than I do. I used to do Common Law, and we used then to get a little slip of paper, so big (*describing*), and carry it in, and that was the order.

47,037. (*Mr. Coward.*) It is never more?—No; that is my recollection.

47,038. (*Chairman.*) The orders are of a very simple character?—Very simple character.

47,039. The same system of the solicitor drawing up the order would not be applicable in the Chancery Registrars Office?—Not at all.

47,040. You think it necessary that the orders there should be drawn up in the office?—I think so. Sometimes, when an order is extremely difficult, the judge directs the junior counsel in the case to sign the minutes in Chancery actions.

47,041. So that in that case the work is done by counsel?—Yes, and the registrar simply puts it into shape. Sometimes then the registrar alters the form of the order because junior counsel, not being quite conversant with the practical working of the order, is not quite accurate in the way he has expressed himself in the minutes.

47,042. The question has been raised before various committees and commissions that have sat before now, as to whether the two offices of Chancery Chambers and Chancery Registrars should be amalgamated. The committee of 1886 recommended that; Mr. Justice Kekewich's Committee did not recommend it?—There is a difference of opinion upon it.

47,043. What is your opinion?—I think they could be amalgamated, and there would be a great saving if you had the proper men; but if you are going on with the appointments as they are now in chambers, I do not think you would get a qualified staff to do it.

47,044. You mean the men who are at present appointed to be masters in chambers?—I am not saying anything about the masters.

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47,045. You are speaking of the office staff?—Of course. I do not think the masters would have quite the experience. The masters are all qualified solicitors of so many years' standing, and some of them, but not many of them, would have practical experience in the registrar's work; others would have no experience at all in that work, and would not know anything about the work of the registrar's office practically.

47,046. But men of ability and experience who are appointed masters would have no difficulty in learning the work?—None whatever, but I do not see how a master is to learn it if he is appointed master, unless you mean that the masters are to sit as registrars.

47,047. The suggestion that has been made is, that ultimately the masters and the registrars should be entirely amalgamated, and that there should be one body of officers in the position of masters, who would do both the chamber work and the work of drawing up orders, and would take the work by rotation as it came in?—I see no difficulty in that.

47,048. No doubt, when the amalgamation first took place, the existing officers who had been working as masters would continue to do master's work, and those who had been registrars would continue to do registrar's work. Complete amalgamation and complete interchangeability of the officers would be brought about gradually. Do you see any difficulty in that?—I see no difficulty then, because certainly any master, I should think, would get practical knowledge in a year or so.

47,049. Would not an amalgamation of that sort result in some economy of labour?—I think great economy of labour.

47,050. For instance, at present in the case of Orders on Proceedings in Chambers, we have been told that the minutes are in some cases drawn up by the chamber staff and sent to the registrars for the purpose of drawing up the order?—I do not think that is quite right. If you have minutes they are generally prepared by the solicitor and carried in to the master, and he goes through them and settles them.

47,051. Perhaps "minutes" is not the right word, and "Memorandum" of Orders made in Chambers is the term to use?—The first and second class clerks indorse on the summonses a short memorandum of the orders made; but it does not come to more than this sometimes, that if you get a summons in proper form when issued, the clerk would indorse on the summons "Order as asked," and that goes to the registrar, and he draws the order. He knows the form of order wanted.

47,052. That would be sufficient for the registrar?—Certainly.

47,053. But in the case of more complicated orders resulting from proceedings in chambers, has not a more complicated memorandum to be drawn up for the information of the registrar?—Yes. In that case minutes are prepared generally by the solicitor, carried into chambers, and settled by the master, and then the master indorses the summons with "Order according to the minutes 'signed by me.'" That is the practical way of doing it.

47,054. In a case of that sort there would be some economy of labour if it was all done in one office?—Yes; because I think then the minutes could go at once to the stationer to be copied. In the case you are putting they go to the registrar's office, and are taken in by his third class clerk, who makes a lot of entries in a book. Then it goes to the principal clerk, who pencils on the minutes the formal part of the order, and he sends it to the stationer. I think all that could be saved, because, when you are settling the minutes before the master, it would take scarcely any longer to put in the formal parts of the order.

47,055. Do you see any difficulty in the amalgamation of the office staff of the two offices?—At first, I expect, there would be some difficulty. I do not think the registrar's principal clerks would have quite the experience that they ought to have to do the work of first class clerks. I should not like to say that they would not be able to undertake the work.

47,056. They have had no experience at present of the general work of chambers?—Some of them have not; some have. I can give particular instances where two of them at least have had general experience.

47,057. No doubt, in amalgamating the existing staffs, the difficulty that would occur with regard to masters and registrars would also occur with the staffs; certain individuals would do one side of the work, and you could not have complete interchangeability at once?—Quite so.

47,058. But, ultimately, do you see any difficulty in having a complete amalgamation of the staff?—No, none whatever; because, if you appoint a first class clerk from a solicitor's office, he would have sufficient experience to draft the orders and practically settle them for the registrar or the master to sign, in the same way as he prepares the certificates now.

47,059. A master who has heard the matter would be the person best acquainted with it, and, therefore, if part of his work was drawing up the orders, the best person to draft the order?—Yes; as he does now, in fact. He makes the order in some form or other; sometimes it is shorter, because he knows the registrar has a particular form, and he does not write it all out, but says, "The usual order in an administration action,"—"personal estate," or "real estate," or "at the instance of a creditor," or "at the instance of a legatee." That all has a meaning in the Registrars Office, so a very short endorsement will do. Of course, the master could draw up the order himself without any difficulty.

47,060. Then your opinion would be decidedly in favour of the amalgamation of the two offices?—Certainly, subject to getting a proper staff to carry out the work.

47,061. And your observations about the necessity of appointing men with practical experience in a solicitor's office to the higher classes would apply equally to the Registrars Office?—Certainly.

47,062. That is the system which exists at present in the Registrars Office?—No, I think not. I speak with deference, as I do not know much about the appointments except what I know from attending there, but I think they appoint young solicitors as principal clerks.

47,063. What I meant was that the third class clerks are not eligible for promotion to the higher classes?—No, they are not.

47,064. Appointments are made direct to the higher class of persons who have some knowledge of the law—it may be more or less, but, at any rate, some knowledge?—Certainly. I think the principal clerks are all young solicitors, and, of course, they are engaged entirely in drawing up orders, and by the time they have been there sufficiently long to be appointed registrars, they acquire a very wide knowledge of forms of orders, and things of that sort. The third class clerk simply takes in the papers and gives them out again, and gets no knowledge of the work at all.

47,065. A question has been raised before the Commission as to whether it is desirable to fix an age limit for retirement. Have you known any cases in which it might have been advantageous to have had an age limit?—A few cases. I should not like to particularise.

47,066. No, I do not ask you to name individuals, but you have known cases in which it would have been desirable to apply an age limit?—Yes, I think it would have been an advantage to the individual and to the public that the retirement should have taken place earlier.

47,067. Are there any other points which you would like to mention to the Commission on which you think improvements might be made in the organisation or working of the offices?—I think there is not sufficient work in chambers for the staff. I do not know whether you think that has been dealt with sufficiently.

47,068. You have already mentioned that in your evidence, but you wish to emphasise that you think at present there is not sufficient work for the staff?—Yes.

47,069. You think the staff might be considerably reduced without interfering with efficiency?—Certainly; and I think holidays should not be taken without leave. Saturdays, for instance, are nearly entirely given up to holidays now.

47,070. (Mr. Graham Wallas.) Saturday morning?—Yes, the day.

47,071. (Chairman.) Do you find that there is no staff there on Saturdays to attend to the business?—

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[Continued.]

I will not say that, but when you are appointed to a public office, and you are supposed to be there every day in the week, including Saturday, I do not think you ought to go away unless the public authority gives you permission.

47,072. As regards the office hours, would it be any advantage to your work if the hours were made longer?—No.

47,073. You prefer that they should remain as they are?—Yes, I think they might start a little earlier sometimes. I have known them to come in at 11 o'clock instead of 10, but I think the hours are 10 to 4.

47,074. Sometimes between 10 and 11 do you not find the whole staff in attendance?—No.

47,075. And you cannot get your work attended to?—We do not often want it, but when we do it is sometimes difficult to get it done.

47,076. With regard to the vacation arrangements, are those adequate for the work that is to be done in vacation?—I think so. The judges are more strict now with vacation work, and I think, now that they are so strict, the work is fairly well done in the vacation. I do not think there is much delay. It is rather a rush from 11 to 2, if you have very heavy matters on.

47,077. Those are the office hours in the vacation?—Yes, 11 to 2, speaking from memory. I do not think there is much to complain of. I always understood that the vacation, according to the rules, was—say, for Christmas, from 24th December until 6th or 7th January. I think the chamber staff take it until the 12th January, when the judges sit. I think things of that sort ought to be altered.

47,078. They take the same vacation as the judges?—I think there is only one set of chambers who attend on those few days. I do not think that is quite right.

47,079. You mentioned that besides the Chancery Offices you have had experience in the Lunacy Office and the Taxing Office?—Yes.

47,080. The Commission has not taken evidence yet about the Lunacy Office, but if there are any points to which you would like to call our attention we shall be very glad to hear them?—There has been a recent Commission on that subject, and I should have thought all the points which would interest the present Commission had been brought in the evidence there.

47,081. You have nothing special to mention which did not appear there?—Off-hand I do not remember anything. They have a very efficient staff there, but then they specialise. They are like the registrars; their work is in a very confined area—a particular class of work for all the clerks.

47,082. (Mr. Boutwood.) I gather that the first class clerks hear simple cases in certain of the Chancery chambers?—Yes.

47,083. But they do not do it in all the chambers?—Yes, certainly. I meant they dealt with them fully.

47,084. But is that the case in all chambers, or only in certain of the chambers?—In all chambers the first class clerk makes orders of some kind, but I do not think the practice as to what they do is uniform.

47,085. It depends, I suppose, on the master?—Yes, I think some of the masters hear their own applications to proceed on orders, and some hear the applications for discovery.

47,086. But more or less of that work is done in all chambers by the first class clerks?—Yes, and they make the orders.

47,087. (Mr. Graham Wallas.) You say that in the Long Vacation there is a crush of work between the hours of 11 and 2?—There is sometimes.

47,088. Do you think it would be in the public interest if the hours were lengthened?—I think it would be better if they would sit on Monday. It is only 11 till 2 on Tuesdays, Wednesdays, Thursdays, and Fridays.

47,089. Then in vacation they do not sit either on Mondays or Saturdays?—No.

47,090. You would have them sit from Monday to Saturday?—No, I would not suggest Saturday in the

vacation. You must remember the practitioners as well.

47,091. You suggest Monday to Friday, but why not begin at 10?—I would rather say keep on from 11 till 3. I do not think it would hurt if they sat for another hour.

47,092. With regard to the staffing of these offices, you make practically two proposals: First, that appointments to the higher clerkships should not go by mere promotion to the third class, but should be made by appointing superior and more experienced people; and next, that those appointments should be made by the judge personally?—Yes, by the judge. I think that is of great importance.

47,093. I want to deal with the second point—that these appointments should be made personally by the judge, and normally from among the managing clerks who appear before him. Do you not think there would be some inconvenience if a managing clerk knew that some appointment, which meant a very great deal to him, depended upon the goodwill of the judge before whom he appeared from day to day?—No, I think the judge is beyond that altogether. The class of judges we get would be beyond that altogether. I do not think they would be influenced at all.

47,094. You do not think that a managing clerk who felt that perhaps next week a judge might have to decide between him and another person, would hesitate to slightly offend the judge when in the interests of the client it was necessary?—I do not think so for a moment.

47,095. In the legal profession there has grown up a custom by which valuable appointments, when they are made by individuals, are very often conferred upon the relatives of those individuals?—That is only since this new arrangement, I think. I do not remember a judge making any appointment of a relative. I cannot call one to mind, off-hand.

47,096. But at this present moment, if I look, for instance, at the names of the masters of the Central Office, you would agree that I should find a very large number of the relatives of judges there?—I know one or two names that occur to me, but I do not think that would have affected the judge who appointed them. I do not think that for a moment.

47,097. And in the offices of the Chancery Division you will find a large number of people who are relatives of judges?—That comes about in this way: in the Registrars Office, for instance, the principal clerks are appointed from young solicitors. They have been articled and have passed, and, I think, they must have been admitted a year, or something like that, before being appointed. I suppose the relatives might have asked for a nomination. That is all.

47,098. But there is a custom by which, if a relative asks for a nomination, it is considered no impropriety to promise it?—I should think not, and I know some of the gentlemen who have been appointed have been most able men.

47,099. But, do not you think, seeing that this custom does exist, that if the unchecked appointments to these valuable posts were left with the judge that consideration, namely, that he had promised a nomination to a young relative, might continue to be effective?—I do not think a judge would appoint an incompetent man to his chambers, knowing the work that has to be done.

47,100. He might appoint a competent relative?—I do not see that there is much objection to that.

47,101. But a competent relative would not normally be the managing clerk to a solicitor?—I should doubt if he would appoint a man who had not experience as a managing clerk. Of course a judge is responsible for the work in chambers, or should be, and, I think, he would take care to have a good man there.

47,102. Have you any experience of the Probate Registry, Somerset House?—No, none whatever.

47,103. (Mr. Coward.) You have had great experience with a firm doing a very large amount of business?—Yes, all classes of work.

47,104. And, I should hope, it is thoroughly well done?—I should hope so. I have done my best.

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[Continued.]

47,105. I was thinking of what you were saying just now—the great competency of the managing clerk from a solicitor's office for an appointment as first class clerk, rather than a clerk who is raised from the lower standards in the same office. I think you will agree with that?—Yes.

47,106. It would be very convenient for us to have an indication of the class of work that the solicitor's clerk does. I suppose I am right in saying that, practically speaking, you are more often than not at one or other or all of the chambers from 11 o'clock, or 10.30, until 4 in the afternoon?—Yes, as I say, the greater part of my life is spent in chambers.

47,107. Before you attend these applications and matters in chambers, you have to master them?—Yes, I have to read them all up and read the evidence. In some cases we prepare the summons if it is our application.

47,108. You certainly do not go to the master without knowing what you are going to talk about?—We have to know not only the subject of the application and the evidence, but we have to know the practice and the law to a great extent. We have to look it all up.

47,109. Certainly; and I suppose you would confer in any matter of difficulty with your principals?—Yes.

47,110. So that you have the advantage not only of your own, but of their experience?—Yes, and in some cases we go to junior counsel.

47,111. And you go to counsel and get their opinion?—Certainly.

47,112. So you go to the masters' chambers armed with knowledge of the case and knowledge of the law applicable to it?—Certainly; it would be no use going without that.

47,113. Having done your work in chambers, which brings you to 4 o'clock in the afternoon, then you have to go back, and I suppose do all the routine of your office?—Certainly; we then write our letters, reporting to and advising clients.

47,114. You do a large agency business, do you not?—Very large.

47,115. That means to say that you act in those matters for solicitors who are in the country?—Yes.

47,116. Therefore, you have, after each one of these cases has been dealt with, in addition to report to your principals in the country?—Certainly.

47,117. You write long letters that will explain to them what has been done?—Yes, and advise them what to do.

47,118. What to do in the future?—Yes; and very often we have letters asking our advice as to the course to be taken in particular cases, and for the purpose of answering those letters we have to look into the law and practice before advising our clients.

47,119. Again, you have similarly the opportunity of consulting your principals, who would advise you what to write, or probably write themselves, to the clients in the country?—The practice in our office is for us to write the letters. The principal sees them, and reads them, and if there is nothing wrong, he signs them.

47,120. What sort of time do you get away after that work is done? You are back in the office at 4 o'clock. Can you get away at 6 or half-past 6?—Usually, because I get there early in the morning—about a quarter to 9—and do a lot of work in the morning. I am at my work the best part of an hour before any one comes; and if I have affidavits to settle, or things of that sort, sometimes I may take them home.

47,121. What time do you get away in the evening?—About 6 or half-past. I do not like working at night. I like working in the morning, so I go an hour earlier in the morning.

47,122. Contrasting that experience with the experience of a third class or second class clerk in the masters' chambers, can there be any question whatever about it as to the efficiency of the two men?—You cannot compare the two.

47,123. They are not comparable?—No, the man in chambers issues summonses, enters appointments in a book, puts the papers away, keeps them in order, and gets them out for the master, and that sort of thing.

47,124. As to the vacation, the clerks in the masters' offices, or in many of them, have the whole of the vaca-

tion?—I know they do. I think it is very unfair. We only get a short time. We have to work longer hours and do all the work, as it were, and get a very much shorter vacation.

47,125. And are very much shorter, probably, in other ways, too?—Yes, with longer hours to work.

47,126. And the clerks in chambers are very well remunerated?—I certainly think they are very well remunerated.

47,127. I do not think you would have any difficulty in filling up their posts if there were any vacancies?—None whatever. There are plenty of able managing clerks about—comparatively young men.

47,128. You do not think it would be desirable to extend the hours of work? Supposing you reduce the staff in these various offices, would not it be possible to give them increased work to do after you and people like yourself have done their work before them?—I think an efficient clerk in the office could well do all the work necessary within the present hours of 10 till 4.

47,129. But I am suggesting to you that the number is too great?—When I suggested that there is room for reduction, I meant that those left could do the work just as well in the time, and there would not be too much work for them to do. I am quite sure that at the present time the work in chambers does not justify such a large staff, and if the staff were reduced I am quite sure they ought to be able to do the work in the same hours.

47,130. I have no doubt that in your office the clerks are not promoted by questions of seniority?—No.

47,131. Nobody ever heard of such a thing in a solicitor's office?—No.

47,132. Nor did you ever hear, I should think, of clerks who received an addition to their salaries entirely irrespective of their ability or progress?—No. I think, speaking generally, that would be unheard of in a private office.

47,133. I think, perhaps, you would agree with me that these salaries that are given in the Chancery offices are very very large?—I think they are generous—very ample for the position.

47,134. (*Miss Haldane.*) How does a clerk come in in your office?—We generally get him as a boy. I went in when I had had some previous experience. I had been six years in a solicitor's office before, and then I took the position of assistant Chancery clerk. After I had been there three years, I think it was, I was appointed managing clerk.

47,135. Then you take a boy in without any certificates of any kind?—Yes, we take a boy from school and we get a reference from the schoolmaster. That is all.

47,136. Then he does not require to have any special knowledge when he comes into your office?—No, not as a boy. We train him up. We have several in the office now who have been in since they were boys and are still with us, now married men with families.

47,137. And they learn their business as they go along?—Yes.

47,138. When you speak of the hours in vacation, does that apply to all the clerks, or are you speaking of yourself only, as managing clerk?—The hours in our office in the vacation are the same as at other times. We do not get shorter hours; it is only the officials who get shorter hours.

47,139. You were comparing your office hours with theirs?—I was speaking of the hours of the officials at the chambers of the judges or the courts. The hours in solicitors' offices are almost the same in vacation as at other times; we do not get much shorter time than at ordinary times. But I think Saturdays might be left out in the vacation, because we do get off sometimes a little earlier on Saturday afternoons.

47,140. (*Bishop of Southwark.*) When you said you went to the office at 9 o'clock in the morning and stayed till 6, that did not mean that everybody in the office did?—No.

47,141. (*Miss Haldane.*) I thought you said you went to the office about 9?—About a quarter to 9.

47,142. Does that apply to the whole office or merely to yourself?—The office hours are 9.45 to 6.

47,143. And the vacations are how much? They depend on the standing of the clerk, I suppose?—Yes.

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[Continued.]

47,144. (*Chairman.*) Would the clerks in your office often have to stop beyond 6 o'clock?—Certainly, if there is any work to be done. We have no office hours.

47,145. But does it frequently happen that they stay until after 6?—Certainly.

47,146. (*Mr. Coward.*) They stay till the work is over?—Yes; they stay till the work is over. I frequently have consultations until after 6.

47,147. What is the length of the vacation for all your clerks? Do you graduate it?—Yes.

47,148. I suppose you get a month?—Yes.

47,149. And nobody would get more, except the principals?—No.

47,150. And the others, down to the boys, would get three weeks or a fortnight?—I think boys, when they first come in, only get 10 days for a year or so, and then a fortnight, going up to three weeks.

47,151. (*Sir John Kempe.*) You spoke of a great improvement in the offices of late years. Do you attribute that to the change in the rules or to the alterations in the staff?—That is only because there is so much less work. I say there is a great improvement as regards delay.

47,152. Is that due to any alteration of the rules of the Court?—I think it is because there is so much less work in chambers, consequent on the alteration in the procedure made by the rules.

47,153. Less work, of course, depends upon the public outside?—Certainly. I was before a master to-day, and he could have given me the whole of the day, he had so little to do.

47,154. You do not think there is any great improvement in the staff of late, and you prefer the old system of appointment?—I prefer the old system of appointment. I do not like to say anything about the present staff.

47,155. You think the important qualification is experience gathered by long time at the work?—Certainly.

47,156. And you think a young man, entering as third class clerk, cannot learn the work in the same way as a solicitor's clerk does?—No, because he does not do the work. The man outside does the work himself; the man in the office does not; he simply sits and does the same thing day after day.

47,157. But you said that sometimes a third class clerk is competent to be raised to a second class clerk?—Yes; of course there are different classes of men appointed, and some have had experience in a solicitor's office.

47,158. But if a man is competent to be raised from third to second class, is it not possible that he would also improve so much as to be competent to be raised from the second to the first class?—Not necessarily, because the work in the first class is much more responsible work, and is a different class of work altogether.

47,159. Has that anything to do with the class of men you get now, or do you think, if the men were more picked to begin with, they could assimilate the work more quickly?—Not unless they had experience beforehand.

47,160. They must have experience?—Undoubtedly, I think experience is necessary.

47,161. You speak of the Chancery work only. You know nothing about the Central Office?—I cannot speak much about the Central Office. I do know something of the Writ and Appearance offices, and I should think the appointments there might be made as they are now in Chancery chambers. I think they do all their work together there, and I think they might be promoted from one class to another.

47,162. Do you think you could get enough men from the third class if they had no prospects at all beyond?—I think so. We used to get them.

47,163. You would get quite a lower class of man for the third class if you started to bring in men of older age and experience to the second or first class?—They always used to get them. I do not know whether the salaries in the old days of third class clerks were a little more than they are now. It is a long time ago since an alteration was made, and I would not like to charge my memory. It may be that they had a

little more salary to start with. We always used to get very good men as third class clerks.

47,164. (*Mr. Shipley.*) When you stop at the office after hours, are you paid overtime?—No.

47,165. Are none of the clerks?—No; or else my salary would be largely increased.

47,166. With regard to pensions, is there any system for pensioning in your office?—There is no system, but I am glad to say that in our office the principals always make some allowance to clerks who have been in their service a great many years.

47,167. You are treated generously?—Yes.

47,168. But there must be many firms of the "Dodson and Fogg" type whom I cannot imagine giving any pension?—No pension at all. It is the exception rather than the rule. It may be said that in agency offices we do not get large salaries, and that may have something to do with our getting some allowance after we leave the service.

47,169. Is there any particular insurance company that deals especially with clerks of lawyers?—We have a Law Clerks' Society, which is a sort of insurance, and we get a superannuation from them. It is a very good society. The subscriptions I pay is 15s. a month, and there is 50l. on death, and I should be entitled to 14s. a week superannuation if I were not able to work now.

47,170. (*Mr. Matheson.*) I understand you consider the work of the third class clerks to be purely mechanical clerical work?—Nearly so.

47,171. Your proposal would be to make that a self-contained class which would have merely a clerical qualification, and not a technical one at all?—That is so.

47,172. (*Bishop of Southwark.*) I want to be quite clear whether, in your opinion, the scheme of amalgamation would secure just the one advantage of economy of staff, or would there be any other advantages?—I do not think so.

47,173. That one thing would be attained; you would get the same work done, and just as efficiently, only it would be done by fewer people?—A great saving of staff I should think, because the third class clerk in chambers can do the third class clerk's work of the Registrars Office as well as his own.

47,174. And you do not apprehend any difficulties or disadvantages?—At first I think there would be some difficulty and disadvantage. I think there would be some difficulty in getting the present staff in chambers to do all the work of the registrars.

47,175. (*Chairman.*) During the transition there would be some difficulty?—Yes.

47,176. (*Bishop of Southwark.*) You will have to build up a new generation?—Yes, but I suppose, if the present staff of registrars were taken over, by the time they were extinct the amalgamation would have been complete.

47,177. (*Mr. Boutwood.*) And ultimately I suppose there would be a saving of time?—Certainly, there is a great deal of time taken up in endorsing summonses and taking them to the registrar, because you are supposed to leave a day for this, and a day for that, and a day for the other.

47,178. (*Mr. Coward.*) How long does it take to draw a Chancery order?—You can get them done most expeditiously. If they are really needed, and if you put your back into it, you can get the master to endorse the summons on the same day, and you can take it round to the registrar and see the principal clerk, and if he knows you he will get on with it, and perhaps you will get it the next day, or in case of injunctions the same day, but they are very special and very short.

47,179. But, speaking generally, it takes several days?—Yes, it is very quick work to get an order drawn up in fourteen days; you cannot always do it.

47,180. (*Mr. Graham Wallas.*) Would a solicitor's clerk not known to the officials get worse treatment?—You know what it is—you go round and you know the man, and you say, "I want this done."

47,181. If he knows you well and is friendly he does it?—Not particularly friendly, but if you have been round the chambers a long time and he knows who you are, if you go round and say, "This is an urgent matter, will you get it done at once," he will do it for you. I find them very obliging in that way.

ONE HUNDRED AND SEVENTEENTH DAY.

Wednesday, 3rd March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Rev. the LORD BISHOP OF SOUTHWARK.
 The Right Hon. LORD MERSEY.
 Sir JOHN ARROW KEMPE, K.C.B.
 Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.
 Mr. PERCY EWING MATHESON.
 Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
 Mr. GRAHAM WALLAS.
 Mr. E. W. H. MILLAR (*Secretary*).

Mr. JOHN ROGER BURROW GREGORY (a member of the Council of the Law Society), called and examined.
 Mr. EDMUND RALPH COOK (Secretary of the Law Society) was in attendance.

47,182. (*Chairman*.) You are a solicitor and a member of the firm of Rawle, Johnstone & Co.?—I am.

47,183. And before that had you read in chambers?—I had, in the chambers of the late Mr. Wolstenholme and in the chambers of the late Mr. Danckwerts, as a pupil of course.

47,184. And you come before the Commission to-day as representing the Law Society, of the council of which you are a member?—Yes. The Council of the Law Society have seen the statement of my evidence and generally approve of it; but it may be that in the course of your questions to me I may say something for which I should prefer to take personal responsibility entirely.

47,185. Your work as a solicitor has brought you more especially, I think, into contact with the Chancery Division?—It has with both divisions.

47,186. You have had contact with the King's Bench Division?—Yes, I have.

47,187. And with the other divisions, the Probate Division and Bankruptcy?—Yes, with practically everything, from the House of Lords to the County Court.

47,188. In the first place, as regards the masters of the King's Bench Division, the Commission has already had evidence as to the nature of their work, but we should like to have your opinion first of all as to how that work is done?—I think the work is done on the whole very satisfactorily. The masters, taking them as a body, are quite competent people, and are well capable of dealing with the work they have to deal with, and I think the work on the whole is well done. There is no serious delay, though just at the present moment there is a temporary delay owing to the emergency legislation, which has involved applications to enforce judgment in each case. The only complaint I have to make about the King's Bench masters' method of doing their business is the way in which they do it, that is to say, the conduct of their lists.

47,189. Will you explain that a little more fully?—When you go to attend a summons in chambers before a master in the King's Bench Division you have to find your opponent amongst, I do not think I speak too strongly, a howling mob of clerks. You call out the name of your opponent, and you get his clerk on the other side. Then you are rushed into a room full of a large number of clerks or parties who may be attending to the business, and the man who is able to force his way to the table first, and get his summons across the table to the master, is generally taken first. That is unsatisfactory. It only requires a little organisation. They should deal with their lists as the masters in the Chancery Division do, that is to say, people come into the room and sit down, and come up to the table as the master calls the case: It only requires a little thought and trouble, and it could be perfectly well done.

47,190. Are not the cases taken in the order in which they appear in the list?—They are taken in batches; there are so many summonses for 11 o'clock, so many for 11.30, and so on, and then that batch goes in. Then there is a second call.

47,191. In each batch are not the cases taken in the order in which they are printed in the list of that batch?—No, they are not, really.

47,192. (*Lord Mersey*.) Is not that because the people are not there?—It is sometimes, of course; and then, if your opponent is not there, you are asked to wait for the second call.

47,193. (*Chairman*.) Does the master not call each case as he comes to it in the list, and, if the practitioners are there, are they not heard in their proper turn?—It is in this way. I should be outside the door and my opponent would call out, "Rawle and Company," and I should say, "Here." Then we should hand our summons to the usher outside the door, who would take it in his hand, and when he had got five, six, seven, or eight, he would take them into the master's room and hand them to the master; and then they would come out practically in the order in which the usher had handed them in to the master. I have here—I do not know whether you would care to see it—one of the chamber lists. That (*producing the same*) is the King's Bench chamber list of yesterday or to-day. You see there are a great number of summonses there for 11 o'clock. They cannot all be heard at 11, some of those would come on at 12.30 or 1 o'clock.

47,194. Then would your suggestion be that the order in the list should be more closely followed?—I think that the list should be broken up into half-hours, so that the second call might come more quickly. I am sure that the masters, if they turned their attention to it, could do it with much greater convenience. And it involves a very great amount of waste of time.

47,195. Apart from that, have you any other criticism of the manner in which the business is done?—No, I do not think I have. I think on the whole it is done very well.

47,196. As regards the arrears that you have mentioned, we have been told that the amount of arrears is now diminishing, owing to the steps that have been taken to clear them off?—Yes, it is. I think it is merely temporary.

47,197. As regards the selection of persons to be appointed masters, at present I think all the masters in the King's Bench Division are barristers?—Yes, they are, I think.

47,198. The statutory qualification enables either a barrister or a solicitor to be appointed?—It does.

47,199. But as a matter of custom and practice they are all barristers?—They are.

47,200. Is that in your opinion desirable, or would you suggest any change?—Speaking as a solicitor for

3 March 1915.] Mr. JOHN ROGER BURROW GREGORY. (Mr. EDMUND RALPH COOK was in attendance.)

[Continued.]

solicitors, I do not see why solicitors should not be appointed. The best master I think I ever knew was a solicitor.

47,201. A master in the King's Bench Division?—Yes. There are no solicitors there now, and I do not know why they should not be appointed; they are quite competent to deal with the work. But there is not so much reason for appointing a solicitor as master in the King's Bench Division as there is in the Chancery Division, because in the King's Bench Division the masters have no control of a staff; in the Chancery Division they have.

47,202. In the King's Bench Division the whole of the office staff is controlled, as we have been told, by a committee of masters, and therefore by the senior master?—Yes, but it is a very different kind of staff, and there is not the personal touch between a King's Bench master and his staff that there is between a Chancery master and his staff.

47,203. You mean that the staff is not divided into sections, each section attached to a particular master?—No, the work does not involve the necessity of it. A King's Bench master makes an order yes or no as a rule right away; a Chancery master's work generally involves some account or something to be done upon the direction that he gives, which is done by his clerk.

47,204. What are the qualities produced by a solicitor's training which you think necessary for a King's Bench master?—For a King's Bench master I do not think that a solicitor's qualities are so necessary if only for the one reason alone, that he has not to control a staff; if I may I would rather put it in this way: that it is not essential that a King's Bench master should be a solicitor, but that it is essential that a Chancery master should be a solicitor. At the same time I do not see why some solicitors should not be appointed King's Bench masters.

47,205. I will read to you a sentence from Sir John Macdonell's evidence, and ask your opinion about it. He is speaking of the question as to whether barristers or solicitors are more suitable for appointment as masters of the King's Bench, and he says: "The master has to deal with applications with regard to pleadings, for example—a large portion of his duties relates to pleadings, statements of claims and of defence and replies, and so on. A practising junior barrister has spent a considerable portion of his life in dealing with such questions. A solicitor has probably been occupied otherwise, and possibly more profitably than in dealing with those matters." What do you say to that?—I was almost going to say the same thing myself. In the King's Bench Division of course they do have to make applications with regard to pleadings; but I believe that an ordinary solicitor, such as the master I referred to just now, would be absolutely competent to deal with the question whether a man should give particulars of the deficiency of an engine, or whether he should answer further interrogatories, or whether his statement of claim shows any ground of action or not. I believe that the education of our profession and the practice of our profession are quite sufficient to qualify men to do that equally well as the ordinary barrister who is appointed a master.

47,206. Then you do not put it higher than this—that a solicitor of suitable personal qualifications would be equally well qualified for appointment as master?—I do not want to put it higher than that; I do not say that he is better for a King's Bench master, but I do for a Chancery master.

47,207. Then as regards the taxing masters, the Commission have had evidence as to the nature of their work, but here again we should like to have your opinion as to the most suitable persons for appointment?—I have no hesitation whatever in saying that a solicitor, and a solicitor only, should be appointed a taxing master.

47,208. What are your reasons for that opinion?—My reasons are that he has to deal with bills of costs in respect of work done in a solicitor's office, and it is only the training of a solicitor that enables him to know whether the work has been well or badly done.

One of the chief duties to my mind of a taxing master is not so much to allow for the work he sees before him as to allow remuneration for the work that he does not see before him; I mean to say the work that has been done in eliminating the chaff and producing the grain. For instance, a man may put a very poor brief before counsel and it may be an enormous document, and that sort of solicitor might think he would be entitled to a larger remuneration for a brief of that kind, whereas his opponent in the same case might have prepared a brief that covered but a few pages, but the brief on the few pages might contain the whole substance of the case and be a far more valuable document than the long brief. It is only a man who has been brought up in a solicitor's office who can, if I may say so, spot such things as that.

47,209. A barrister has to use the brief?—Yes.

47,210. Would not a barrister very quickly perceive that the brief contained a large amount of matter that was of no use to him and not essential to the presentation of the case?—I do not think he would. I have used the instance of a brief, but, of course, I must take all other documents. And then another thing that a taxing master has very often to do is to see whether the costs have been increased in any way by the solicitor's over caution, or, perhaps, by his being a little nervous and getting a little too much evidence; or he has to see whether a solicitor has taken the longer route when he might have taken the shorter one; and there are very many things that are only done in a solicitor's office, because the counsel never really sees the conduct of the case till the brief is before him, except when he draws pleadings and advises on evidence; and it does seem to me to be absolutely essential that the taxing master should be a solicitor. There is one taxing master who is not a solicitor.

47,211. At present the statutory qualification allows of the appointment of either a barrister or a solicitor?—Yes, it does.

47,212. The senior taxing master who appeared before the Commission expressed the opinion that it might be desirable sometimes to appoint a barrister; he thought that to have an element of that side of the profession represented among the taxing masters would be an advantage. You would not agree with that view?—No, I should not. I do not wish to say that I am raising any objection to the present taxing master, who is a barrister—he has been there some time, and has acquired a knowledge of the work, and I am not for a moment going to say that he is not satisfactory; but we have always looked upon it, you know, as rather a privilege of our profession that our bills of costs should be dealt with by one of ourselves.

47,213. You think that is the most suitable way?—I certainly do. I do not think there can be a shadow of a doubt about it. Anybody knowing the work of a solicitor's office, from the office boy to the senior partner, must see that there are a hundred and one things that can only be dealt with properly by a man who has actually done the work himself, and seen it done.

47,214. As regards the clerks in the taxing master's office, they take some part in the preliminary operations of taxing, a preliminary scrutiny of the bills?—Yes.

47,215. What qualifications and experience do you think are necessary for them?—I think they should be solicitors' clerks who have done the work themselves.

47,216. You think that a man who came in without experience in a solicitor's office would have a difficulty in learning the work?—I think he would have the greatest difficulty. I do not think he would ever learn it; it is really a sort of knowledge that you can only acquire by doing the work yourself; it is knowledge that you cannot get from books or reading, you can only absorb it.

47,217. If suitable persons, with some experience in a solicitor's office, were appointed as clerks, do you think they should be eligible for promotion as masters?—No, I do not. I think that the qualifications of a master and the qualifications of a clerk are entirely distinct. There are clerks, of course, who become

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partners in various firms, and good partners, but not as a rule. You see, when you get to a master there is a higher discretion exercised; and I think that, as a general rule, a man who has passed in as a first or second class clerk is not in the least degree competent to be promoted to master. The period for which he has been a clerk is of itself against it. He will not have become qualified under ordinary circumstances for, perhaps, 15 years, and by that time he is so imbued with the duties of a clerk that he has lost touch with the outside world, and—it is very difficult to express it—but he is a clerk and not a master, and always will be a clerk. If you promoted that man to master you would get a little mind; you would not get the broad mind that you get in a man who is just taken fresh from active practice and contact with his own profession and with the Bar, that you need for the appointment of a master.

47,218. You mean that he would be inclined to attach too much importance to the small technicalities?—Yes; and not to exercise discretion.

47,219. On the other hand, during all his experience as a clerk he has been constantly seeing in what manner the master exercises his discretion?—Yes, but I do not think the advantage of that is to be compared with the disadvantage of the fact that he has been for a long time removed from the active practice of his profession.

47,220. That disadvantage, if I understand you aright, is rather a question of the whole mental attitude and standpoint than a question of actual knowledge or experience?—In the Chancery Division, as you know, we have to deal, I do not say every day, but very frequently, with questions that are really domestic questions: whether a ward of Court should be sent to Eton or say to Tonbridge, whether another ward of Court should be allowed to marry, whether the heirlooms of one of the show houses of England should be sold or not, and how that sale should be carried out—the master would probably decide that—whether a mother should be allowed 400*l.* or 1,000*l.* a year for the maintenance of her child. All cases of that sort are things that require tact and discretion, and tact and discretion that you would not get in a man who had been working to a certain extent in a groove for 10, 15, or 20 years.

47,221. You are dealing now rather with the question of Chancery masters?—I am.

47,222. Would these remarks apply equally to the taxing masters? Surely they have not questions coming before them requiring the kind of discretion you have been describing?—They do apply to taxing masters quite as well for this reason: One of the most difficult items that a taxing master has to deal with, if he is taxing a party and party bill of costs, is the item known as "Instructions for brief," which is a general item allowed to the solicitor for getting up the case. It is not every one who knows the work that is involved in getting up a case, even when the papers do not show it; they may rather do the reverse—the less the papers the greater the work sometimes. You want a man fresh from the work, who has done the work himself, to form a proper judgment on it, and you must remember that these clerks are taken from their profession fairly young.

47,223. Before we leave the question of taxing masters, I should like to ask whether you have any criticisms to offer as to the manner in which the work is done or organised in that department?—At present, none whatever. If I had been in this room 10 or 15 years ago I might have had a good deal to say. At present I think the work is very satisfactorily done. You have quite a competent set of men there. You have seen the senior master yourself, and I think the work is well done and very fairly done as between the solicitors and the public.

47,224. There are no arrears?—No, there are no substantial arrears.

47,225. The senior master told us that so far as there were arrears they were rather from delay on the part of solicitors, than on the part of the public. Would you agree to that?—I do not know. I myself am always anxious to get the bill taxed, and the amount allowed and the sum paid; but there are some of us who

perhaps do not vouch their bills or leave their bills in the office; I dare say that may be true, but personally I have not experienced any delay in the taxing master's office. There used to be delay, but there is not now. You get a master sometimes who may have a very heavy bill; for example, some little time ago the Water Board bill was dealt with in the taxing master's office and that threw the master in arrear; or you might get a great big bill involving enormous expenditure like that American legitimacy case the other day, that would throw the particular master who got it rather in arrear. But those things pass off and equalise themselves.

47,226. Turning now to Chancery chambers, some of the remarks that you have already made apply to the work of the Chancery masters. That work is very different in its character from the work of the masters in the King's Bench Division?—Yes; it is much more administrative.

47,227. Much more administrative and much less purely judicial?—Yes.

47,228. At present the appointment of a Chancery master is confined, I think, to a solicitor?—Yes, by statute. You see they were chief clerks, and then their name was altered to masters.

47,229. And you are of opinion that that qualification should be maintained?—Most strongly. Their work is solicitor's work. For instance, one of the things they have to do is they have to conduct sales of property that is sold under order of the Court, they have to fix reserve bids, to settle the conditions of sale, appoint the auctioneer, fix his remuneration and fix his security—work which is done always by solicitors and never by barristers.

47,230. In dealing with matters of that sort, say fixing the conditions of sale and the reserve, is the initiative with the Chancery masters or is it with the solicitor; does the solicitor put before them suggestions on which they have to decide, or do they have to initiate suggestions themselves?—The initiative is with the solicitor; he carries in his draft particulars and his draft conditions and he nominates the auctioneer.

47,231. So that in all cases the master's discretion is a discretion exercised on something that is put before him, not on something he has to invent or initiate himself?—No; on a suggestion put before him.

47,232. But your view is that the discretion which he has to exercise is so closely akin to the discretion that a solicitor is exercising in the course of his business, that a solicitor's experience is the only experience that is suitable as a preliminary qualification?—Certainly; in fact, he is doing in his chambers in cases under the Court the work that the solicitors are doing in their offices in cases not under the Court.

47,233. Have you any criticisms or suggestions to offer as to the manner in which the work is done there, and as to the organisation of the office of the masters?—That question brings me to the question of Registrars. I think that the system under which the judges have their own staff of masters and masters' clerks is a very good system indeed; they are in touch with one another, and I think there is a certain amount of *esprit de corps* between the various divisions; they each like to see their work done the best. I think it would be an improvement if the judge's staff was completed by having a registrar attached to him who could draw up his orders, otherwise I think the organisation of the office good. Whether it is overstaffed or not is another matter.

47,234. From your point of view, the work is satisfactorily done in Chancery chambers?—Most certainly; excellently done.

47,235. And there is no delay there?—There is no delay at all. There, again, there used to be delay years ago, but there is not now.

47,236. Would you suggest that the registrars should be attached to particular Chancery judges or to particular groups?—To particular groups.

47,237. As the masters are at present?—Yes. As you know, perhaps, there are three sets of two judges each, a very excellent arrangement that has done much to decrease delay.

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47,238. That would amount, I presume, to an amalgamation of the masters and the registrars; or would you retain the organisation of the Registrars Office separate?—I think they should be amalgamated.

47,239. You are aware that that question has been considered by several commissions and committees?—Yes.

47,240. I think you were a member of one committee?—Yes.

47,241. That was the Kekewich Committee of 1907?—Yes.

47,242. A previous committee, the Esher Committee of 1886, had, I think, recommended that amalgamation should be brought about?—Yes.

47,243. In fact, they carried their recommendation further; they would have amalgamated the taxing masters' and the registrars' offices?—Yes.

47,244. But in the committee of which you were a member, the Kekewich Committee of 1907, I think at that time the opinion of the Chancery judges was unfavourable to amalgamation, and the Committee accepted their opinion; was that not the case?—Yes, that was so. Mr. Stewart, the present Public Trustee, and Mr. Winterbotham, the present Official Solicitor, and myself differed on that, and we signed a minority memorandum.

47,245. Then you were in favour of amalgamation of the two offices?—Yes, we were.

47,246. Would the amalgamation of which you are in favour amount to a complete identification of the masters and registrars? I mean, in future appointments, would you consider that the person appointed should be able to perform the duties of master or registrar indifferently, or would you still keep the persons separate?—I think it would be better that you should have a group of masters; that they should all be masters.

47,247. That they should all be masters, and that they should combine with their present functions as masters the function of drawing up orders?—Yes.

47,248. You see no difficulty about it?—No, I do not. It would require, of course, a certain amount of thought in the actual arrangements, but, generally, I see no difficulty in it.

47,249. Naturally there would be a period of transition during which existing officers would continue to perform their existing functions?—Yes.

47,250. But the amalgamation could be gradually brought about as regards new appointments?—Yes. Might I refer you to our Report for one moment?

47,251. If you please?—In our minority Report on page 7, if you have it before you, we said: "In recommending that the staff of the Registrars Office be divided into three groups, each adequate to deal with the orders made by one pair of judges and their masters, we recognise that if this proposal be carried out it will be easy, if thought desirable, at any future time to carry out in its entirety the recommendations of Lord Esher's Committee, referred to in our Report, with which we are in accord."

47,252. Quite so; then as the first step you would recommend the attachment of particular registrars to particular groups of judges—that step to lead on to the further step of amalgamation?—I think that would be one of the most convenient ways of doing it.

47,253. Do you find that any inconvenience is caused by the present separation of the two offices of masters and registrars?—Yes, I do. A judge makes an order, and in drawing up that order some difficulty arises; you find perhaps that some remote infant has not been made a party, or that somebody has died, or there may be some little doubt what the judge meant. In that case we have to go back to the judge to do what is known as "speaking to the Court on the Minutes." That involves briefing counsel and so on. If it was all in the judge's own staff we should merely ask the master or the registrar, whichever you might like to call him at that time, to mention it to the judge or to put it in the judge's list on Monday, and we could

go and ask the judge; it would all be much more under his own control.

47,254. In fact it increases the complication of the operations you have mentioned to have the separate offices?—Yes.

47,255. As regards the persons to be appointed, would your remarks in reference to Chancery masters apply to the registrars also?—Yes, more especially if they are going to be masters.

47,256. Turning now to the clerks, do you think that the present system of appointment produces satisfactory results?—In every office, of course, you must have certain items which are not of the very first class, and you have a considerable number of clerks here, some of whom are better than others; but, on the whole, you get a very intelligent businesslike set of men as first, second, and third class clerks.

47,257. The suggestion has been made that the clerks should be recruited by competition, either open or limited; what is your opinion as to that suggestion?—I have never been a good examinee myself, if I may say so, and I think that competitive examination in a case of this kind would be absolutely disastrous.

47,258. On what grounds do you think that?—First of all, I do not believe that anybody could propound a set of questions which would test the efficiency of a person for these appointments.

47,259. In the competition which is applied in the Civil Service generally, the method, generally speaking, is not to examine the candidates in the subject matter with which they would have to deal after appointment, but in general educational subjects; on the theory that if you get the best man in intellectual qualities and equipment, as shown by examination, you will probably get the best man for any particular work he may be put to. You consider that that theory is not applicable to the appointment of clerks in the Chancery offices?—Yes, and I will give you an example to the contrary. We have a very stiff honours examination in our solicitors' profession, and, of course, the majority of men who take first class and high honours in our examination do well, and are good men; but in my own experience I have known men take, I will not say first class honours, but honours, and do very well in their examination, whom I would not have had in my office as clerks at 50l. a year, so unpractical may they be.

47,260. Those would be exceptional cases?—Of course, they are exceptional.

47,261. I think you have already said that you consider previous experience in a solicitor's office important as a qualification for appointment as clerk?—I think I might say essential.

47,262. Supposing the examination were competitive, but only open to persons who have served a certain time in a solicitor's office, what would your view be?—That would mitigate the evil.

47,263. But still you are of opinion that it would not produce suitable clerks?—I do not think you would get the best men by competition. You would get the man who did himself most justice in the examination room, but I do not think you would get the man who was the best practical worker.

47,264. Do you think that under the present system, you necessarily get the man who is the best practical worker?—You get a very satisfactory set of men, and I am unable to suggest any better way of selecting them.

47,265. Would your opinion apply equally to the Central Office?—Yes, I think it would. The work at the Central Office is rather more mechanical than the work of clerks to Chancery masters; it consists in issuing or stamping the same sort of documents day after day; there is not quite the variety that there is in the Chancery Division.

47,266. An intelligent young man could learn the work of most branches of the Central Office in a very short time, without previous legal experience?—Yes, I think he could.

47,267. Is it your view that the clerical staff should, in most cases, as at present, be recruited from the

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bottom; that is to say, by appointment to the third class, with subsequent promotion, or that direct appointments should be made to the higher offices?—I think I have used the expression in the statement that I put in that, in my opinion, selection, as distinguished from seniority, is absolutely essential to efficiency. If you allow a man to move up merely by seniority, the probability is that you get the worst to the top.

47,268. Why the worst? I can understand it if you say the average?—You get the man who stops on longest.

47,269. Does the good man leave earlier than the indifferent man?—He may get into some other department.

47,270. If he is really a good man, he may rise to something higher outside the office?—Yes.

47,271. In fact you get the sediment rising to the top?—You do, if you can use that little Irishism; but I think that expresses it.

47,272. And that must be discouraging to the good man?—Yes; but I realise the difficulty, of course, in selection. You must get people to select who are willing to take upon themselves the responsibility of the selection. I think in the Chancery Division that ought to be easily done. I think the masters ought each year to furnish their judges, or whoever the selecting authorities may be, with a list of their clerks, in order of merit, or indicate who are the best, and then, when the time comes for promotion from one class to another, the judge, or the selecting body, would have something before them from which they might select the best men.

47,273. Is there not some difficulty when you have the clerks attached to individual masters, in getting a common standard of comparison for promotion?—Their work is pretty well identical, and the man who would be the best third class clerk to Mr. A. would probably, on promotion, be the best second class clerk to Mr. B.

47,274. On the other hand, different persons, as you know, have very different standards of excellence. Would there not be some difficulty in getting a common standard?—There is the human element, of course, which none of us can eliminate.

47,275. But irrespective of difficulties of that kind, you think that promotion ought to be entirely on merit?—I do, and not either by seniority or by interest.

47,276. Then you would be in favour, in some cases at any rate, of direct appointment to the upper classes?—Yes, but with very great care. You see, the injustice of that is that you may inflict very serious hardship upon the people below by stopping promotion.

47,277. The suggestion has been made with regard to some of the offices that the work of the third class is so different in kind from the work of the higher classes that it would be desirable to have a complete, or nearly complete, bar between them; to recruit for the third class men who would not expect to rise above the maximum salary of the third class, and to recruit the higher classes entirely on a different basis: to recruit direct for the second class, and to fill vacancies in the first class by promoting from the second or even occasionally to recruit direct to the first class. Do you think it would be desirable to make a complete separation of that kind?—I do not see why you should erect an insurmountable barrier at the top of any class, because you may find that you have in that class a man who is quite competent to go up into another class. For instance, the last clerk who left me to go into the office went in as a third class clerk and has proved himself an excellent man and has now become a second class clerk, and no doubt when his turn comes to be a first class clerk he will be equally good. If you had had the bar that is suggested that man would never have moved out of the third class.

47,278. So that you would leave the possibility of promotion from the third class, but would make outside appointments as well to the higher classes?—Yes, promotion from the third class subject to selection. If

you could not count upon a good enough man in the third class to promote to the second class, you must take somebody from the outside.

47,279. A man would be subject to a very severe scrutiny; that is to say, he would not be promoted to the second class unless he was capable, in time, of doing the best work done by the first class?—That is so.

47,280. Do you think it would be an advantage to have a certain element with outside experience brought in to the upper classes?—In moderation.

47,281. Where would you get that element from; from what class would you recruit it?—From young admitted solicitors I should think, if you are going to appoint first class clerks, or middle-aged managing clerks.

47,282. I was referring to the suggestion that appointments should be made to the second class with prospects of promotion to the first class?—There are many young admitted solicitors, and also men of middle age, managing clerks. I think you have had Mr. Oakshott before you?

47,283. Yes?—He is the type of man I rather refer to, although perhaps he may be a little older than the man I should wish to appoint.

47,284. What sort of age do you suggest for appointment?—I think he ought to have had about seven or eight years' practice; that would bring him to about, say, 29 to 32.

47,285. That is considerably younger than most of the clerks at present promoted to the second class?—Yes; but you would, I hope, be taking a very good man.

47,286. Do you think it would be better to take a good man at that age than later?—I think it would, because you would have a difficulty rather later in getting a really good man. If he was a really good man he would be well in sight of a partnership by that time.

47,287. Turning now to the question of the hours of attendance at the offices, do you think that the present hours are suitable?—Of course the hours of the masters and of the clerks in the offices are different from the hours that we work ourselves. The hours of a junior partner in a large firm would probably be from soon after 9 in the morning to 7 at night, working hard all day. But you must consider the public. If you are going to allow the public, and when I say the public I mean, of course, our profession, to attend appointments up to 5 o'clock at night, you are going to have very great difficulty in doing your outside work, getting your reports off to the country and preparing your documents for the next day or subsequent days.

47,288. You think it would be undesirable for the offices to be open to practitioners later than 4 o'clock?—Yes.

47,289. There is work, I suppose, to be done in the offices after they are closed to practitioners?—I am quite sure that the best of the masters and the best of the clerks, whenever there is anything like approaching arrears, either take work home or stop very late. I think there is a very honest feeling among the clerks in the offices about that. There is a good deal of overtime done.

47,290. So that although the prescribed office hours are from 10 to 4, you think that actually longer hours are worked in many cases?—I do, whenever it is necessary.

47,291. On the other hand, I suppose it often happens that a master has finished his list before 4 o'clock, and gets away?—Yes, it does. The hours are easy—very easy.

47,292. As regards vacations, do you consider that the vacation arrangements are suitable for the performance of necessary work?—Well, it is difficult for me, even if I wished to do so, to defend a ten weeks' vacation in the summer; but that is a matter that has been discussed by very able people, and I think it will probably be some time before it is much reduced. But I do think that the masters might put a much more liberal interpretation than they do upon what is known as vacation business. There again it depends upon the

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man. Some masters will deal with almost anything if you bring it to them as vacation business; they are glad to do the work. Others are always ready to turn it away on the ground that it is not vacation business. I think they might put a more liberal interpretation on it than they do.

47,293. (*Mr. Coward.*) There is only one master present in the vacation on each side?—Yes, and I do not see why there should not be two.

47,294. One more?—One more.

47,295. (*Chairman.*) That would probably lead to a more liberal interpretation of the term "vacation business"?—Yes, I think it would, because the vacation master is sometimes rather hard put to it.

47,296. Is it at present purely a matter of discretion as to what is regarded as vacation business; is it not defined by rule?—There is no rule that I am aware of about it.

47,297. It is a matter of custom and discretion?—Yes, what is pressing.

47,298. The Royal Commission on Delay in the King's Bench Division made this recommendation: "We recommend that the offices of the Supreme Court (including judges' chambers) should be open for the transaction of every kind of business up to the 10th of August in each year, and be reopened and business resumed at least twelve days before the commencement of the sittings of the courts after the "Long Vacation." That has not been carried out yet, I think?—No. I appreciate, of course, why they said that; it was that they might at the beginning of the vacation finish off any work that was left by the judges, and that at the end of the vacation they should be preparing the work for the judges to do when they came back.

47,299. The work of the masters consists, to a considerable extent, of work preparatory to the hearing in court and consequent upon the decision in court?—In the Chancery Division, yes.

47,300. Is that not the case in the King's Bench Division also?—No, not nearly so much, because a King's Bench master's decision is a decision. In the Chancery Division in ninety cases out of one hundred it amounts to a decision.

47,301. But in the King's Bench Division it is frequently a decision on some part of the proceedings preliminary to the hearing in court?—Yes, but that is subject to appeal to the judge in chambers, which is an appeal. In the Chancery Division it is subject to an adjournment to the judge, and anybody is entitled on any subject to have the judge's decision, if he is not satisfied with the master's decision.

47,302. (*Mr. Coward.*) Without an order at all?—The master makes no order at all; he is bound to adjourn it to the judge if requested to do so.

47,303. If the parties object to his finding?—Yes, if either party takes objection.

47,304. (*Chairman.*) But still, the work, so far as it is not appealed against, is preparatory to or consequent upon proceedings in court?—Yes.

47,305. So that it would appear logical that there should be a period before the courts begin sitting, and after they cease sitting, during which that work should begin or continue?—Yes; I think that suggestion is quite fair.

47,306. Do you think that the recommendation of the Royal Commission on that point ought to be carried out, and would have advantages?—Yes; but I do not think those periods ought to be taken advantage of for starting any fresh work at the beginning of the vacation; it should merely be for clearing up what the judges have left.

47,307. Do you think, on the question of organisation, there is any work done by the masters which could conveniently be devolved upon the higher clerks?—I can only speak generally, and, speaking generally, I do not think there is. I think the master's day is fully occupied with his work, and I do not think he is doing any work that he could very well delegate to his clerks.

47,308. We have heard that in the Chancery Division

the first class clerks do hear some of the simple summonses—summonses on certain points of procedure?—Yes, they do; and summonses for time.

47,309. And that is not the case in the King's Bench Division?—No; a master deals with those there.

47,310. Is there any reason why the same practice should not be applied in the King's Bench Division?—No; in the King's Bench Division there are two assistant masters, and I should think they might very well do it.

47,311. As regards the Lunacy masters, the Commission have not yet taken evidence from the Lunacy Department, but we should be glad to hear any observations that you have to make that apply specially to that branch?—First of all, I hope that it will not be thought that I am running the interests of my profession as against the interests of the Bar; but there, again, I do not see why solicitors should not be appointed Lunacy masters. Their work to a great extent is administrative and to a great extent domestic; it is the care of lunatics, and that sort of thing; work that could very well be done by a solicitor. Having said that, I do not want to carry that point further. The work in the Lunacy Office is done very well indeed. How it is done I do not know. For years there we have had as masters gentlemen who, had they not been there, one would not think would have been appointed as masters. I will leave it at that. But there you have had all the time an extraordinarily competent set of first class clerks, and they have kept the business going. There was a man there named Keeley. I mention him because he is dead.

47,312. (*Mr. Coward.*) A second class clerk?—He was a first class clerk. There is Mr. Romer there now and one or two others who are exceedingly competent men, and they have kept the business of that office going. Otherwise I think there might have been disaster there.

47,313. (*Chairman.*) You think that in the result the work has been done satisfactorily?—Yes; and it is good work. It is difficult work and special work, and it is done with great consideration for the patients, as we always call them in that department. The work is well done.

47,314. I should like to ask you one or two questions about the organisation of your own office. It would be interesting to the Commission, I think, to be able to make some comparison between the manner in which work is organised in the legal departments, and the manner in which it is organised in a solicitor's office. Do you divide the work up into different departments, each of which is served by a separate staff of clerks?—In my office there are my partner Mr. Rawle, my partner Mr. Johnstone, and two junior partners. Mr. Rawle is now quite a senior partner, getting on, and his work consists mostly in work done in the office; he is seeing old clients of the firm, the most important clients, and he has a far more extensive staff than I have, who do the outside work for him. I do mostly the litigation that comes into the Chancery Division. Sometimes if one of Mr. Rawle's clients, say, has a foot-path action, he will hand him over to me for the purposes of that action, although I may perhaps know nothing whatever about the conditions of the will and the settlement of his estate, and I will carry through that action for him. My partner Mr. Johnstone does Admiralty work, Divorce work, and King's Bench work, as a general rule.

47,315. Have you separate managing clerks for each of the branches; for instance, for all Chancery business?—I have all my clerks in the Chancery Division. If I want anything done in the Divorce or Probate Division, I get one of my partners' clerks to do it for me.

47,316. Would that be a chief clerk who specially deals with the work of that division?—Yes.

47,317. Have you a managing clerk for the King's Bench Division generally?—Yes.

47,318. Have you two managing clerks in any division?—We have a managing clerk and a junior, and there is a shorthand writer and a boy, a paper carrier

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who runs about to see when his appointments are coming in.

47,319. In each division?—That would be in the King's Bench Division, and that would be about the same in each division.

47,320. How many managing clerks have you; one for the King's Bench Division, one for Chancery, and one for the Probate, Divorce, and Admiralty Division?—No, you might say that Mr. Rawle has one clerk who is managing clerk for Chancery; I have two Chancery managing clerks. We have certainly two managing clerks in the Chancery Division; you might say three.

47,321. (Mr. Coward.) And a conveyancer?—Yes, two or three conveyancers.

47,322. (Chairman.) And one specially for probate and testamentary work?—Yes, one does Probate work, and he has an assistant, and he does the Admiralty work, too.

47,323. So that for the Chancery work you have in all three managing clerks, if I understand you rightly; two of yours and one of Mr. Rawle's?—It is a little difficult to say, because if a Chancery application arose, and some of Mr. Rawle's clerks had something else to attend to, he would very likely do it himself. We have got a number of managing clerks.

47,324. Do your two managing clerks for Chancery specialise; does one of them take particular sections of Chancery business, and the other take other sections?—No.

47,325. They take the whole Chancery business?—Yes. I discourage specialisation as much as I can in my department of the office.

47,326. You endeavour to keep your men as general as possible?—Yes.

47,327. That was a point I wanted to come to. In the legal departments under the present organisation there seems to be rather a high degree of specialisation, and from what you say now I gather that in that respect they differ from the organisation in your office?—I try to get my clerks to have as general a knowledge as I can. For instance, supposing that in connection with a Chancery case it becomes necessary to prove a will, I should like the clerk attending the Chancery case to be able to do it. I would tell him to do it, and he would do it; but, if necessary, he would go and talk to Mr. Johnstone's Probate clerk if any question arose.

47,328. And you find no difficulty in training your clerks to deal with most matters of a general kind?—No, not if they are good men. I like to have a man who on an emergency can turn his hand to anything.

47,329. Do you consider that the same principle applies to the legal departments; that it is better that the clerks should not specialise too much, and that the object should be kept in view of making their work general?—I think that in the legal establishments it is better to keep a clerk to a particular kind of work, but at the same time it is very useful that a clerk before appointment should have a knowledge of other offices, because a clerk in the Chancery Division may have to draw an order up which will have to be looked at in the Companies Winding-up Department, or have to be acted upon perhaps by the paymaster, and it is very useful that he should have a knowledge of how the work is done in those other departments.

47,330. Would not the principles that you have been explaining lead to a considerable degree of moving about of clerks in the earlier part of their service?—No, because I should hope that, as you appointed clerks from active practice, they would have sufficient knowledge when they are appointed.

47,331. You do not think it is desirable that that acquisition of general knowledge should continue after they are appointed?—No, I am against translation from one department to another. There are instances of it in the courts now, and they have not worked satisfactorily—transfers from the Land Registry to the Chancery Division or *vice versa*—as a rule it is not satisfactory.

47,332. (Lord Mersey.) Will you tell me for my own information what you mean by the expression "amalgamation"?—As applied to the Registrars Office and the Masters do you mean?

47,333. I mean: What do you mean when you use the expression? You have used the expression very often and I do not know what it means?—At present in the Chancery Division an order made by the judge is drawn up by the registrar in a separate office altogether from that of the masters, and my suggestion is that each judge or pair of judges should have a self-contained staff of his own, including an official capable of drawing up orders; not that if there comes an order it should go to a registrar to be drawn up, whereas if a judge gives a direction it should go to his master to be worked out. I think he ought to have a self-contained staff.

47,334. That is the whole scope of amalgamation, is it?—Yes, I only used the word "amalgamation" as applied to the Registrars Office and the Masters in Chancery.

47,335. It applies solely to the Chancery Division?—Yes.

47,336. You told us something about promotion. I do not understand that you exclude seniority when you are considering the claims to promotion?—No.

47,337. Other things being equal, I suppose you would agree that seniority ought to be taken into account?—I do, certainly.

47,338. Then you told us that you did not agree that the best men for the higher offices were obtainable by means of examination?—No, I do not.

47,339. I understand you to mean by that that you regard qualities as more important than attainments?—Yes, I think if I understand that statement, I do; may I say qualities coupled with experience.

47,340. (Mr. Graham Wallas.) You tell us that, apart from the question whether the Registrars Office should be amalgamated, you think that in the existing office the staff is more than sufficient. Your words are: "I feel that the staff is more than sufficient for its purpose and that some economy might be effected." Would you mind rather elaborating that statement by telling us in what respect the staff seems to be more than sufficient, and what degree of economy in your judgment could be effected?—I think that the Registrars Office is over-staffed. I think that for the purpose of drawing up orders one man ought to be able to draw up the number of orders produced by one judge.

47,341. (Chairman.) Including the orders made by the master at his chambers?—Yes. If the department was amalgamated I should arrange that the masters themselves should draw up more orders now than they do.

47,342. (Mr. Graham Wallas.) That means that you would cut down the number of registrars. There are nine registrars now; how many would you have?—One for each pair of judges would be ample.

47,343. How many is that?—That is six.

47,344. Six instead of nine?—Yes.

47,345. Would that involve any corresponding economy in clerks?—I should think that if each one of those registrars had a clerk that would be quite sufficient.

47,346. Then you would have six clerks to six registrars, and how many third class clerks?—You must have a man who can take his appointments.

47,347. That is to say, you would have six registrars, six clerks for the registrars, and six third class clerks?—Yes. Perhaps you heard Mr. Justice Kekewich's report referred to.

47,348. Yes?—We suggested three groups there. I see we suggested two registrars for each group, as we call it; that was with the idea of their being attached to each group or pair of judges. There would be four principal clerks in one group, and two in each of the other two. There would also in each group be one clerk and one assistant clerk. I consider that ample

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and almost more than ample, and I think if the departments were amalgamated you might reduce it.

47,349. Then you told us that you thought that a good way of appointing to a certain proportion of higher clerkships would be to appoint young solicitors of about 27 or 28 years of age, who had had some experience already?—Yes, if you found it necessary to go outside to recruit the class.

47,350. At present all appointments are normally made to the third class?—Yes.

47,351. And for a matter of 12 or 14 years such third class clerk does extremely mechanical labour, does he not?—Yes, quite, giving appointments and that sort of thing.

47,352. The effect of that, you tell us, is that he always has a little mind, as your phrase was?—If he goes on too long at that sort of thing I think everybody would get a little mind.

47,353. You think, therefore, that if he were appointed comparatively high up in the office after having done good work in a solicitor's office, that process of making small and narrow his mind need not be so marked?—That does apply in some instances, no doubt; but then I would repeat what I said just now, but you must exercise it with great care if you are not going to do injustice to the clerks already appointed.

47,354. I have that fully in my mind. If there were a certain proportion of men who went in at a later age, after having done well in the profession, and from the beginning were appointed to more important work requiring discretion, and if their minds were not made little, do you think that some of them might be eligible for higher posts later on?—I do not think that by that system you would get nearly such good men as you do now. Those men would have been clerks themselves, in nearly every instance, and they would not have had to exercise the thought and the discretion that a partner has to exercise. A partner's work is very different from that of a clerk. If anything goes wrong it is the partner who has to face it out, not the clerk.

47,355. (Mr. Coward.) I suppose you will have found that when a man has been, for instance, in an office, and you see him promoted to partner, you very soon see that man expand, do you not?—Yes, undoubtedly, when he has to take upon himself the direct responsibility, you do. Then he is appointed with the knowledge that he will expand.

47,356. If he is selected from amongst the class of practising solicitors, he has got the opportunity of that expansion already; he would probably be a better man than a man who had not had that opportunity?—Certainly.

47,357. At any rate, you would be able to gauge his ability better?—Yes.

47,358. Referring, for one moment, to the Lunacy departments, the two Masters in Lunacy have to exercise great discretion upon very intimate family matters very often, do they not?—Most decidedly they do.

47,359. I should just like to point this out: The Masters in Lunacy who have been at the Bar have never been brought into connection with the people with whom they will have to deal as masters—I do not mean the professional people, I mean the patients and their families and friends—whereas it would be part of a solicitor's duty to constantly be in communication with people of that kind, would it not?—Quite so. It has been my unhappy fortune to have to interview, in asylums and elsewhere, numbers of patients, and to ascertain their own views of what they have to do and how they are being treated.

47,360. The point I am upon is, would you not expect to find a solicitor a more competent person, other things being equal, to be a master in lunacy than a man selected from the Bar?—Yes, I should certainly.

47,361. For that reason?—For that reason, and for several others as well.

47,362. (Sir John Kempe.) When you make a suggestion for the reorganisation of the offices, I suppose you have in view chiefly the convenience of those attending the courts—solicitors and other people attending

the courts?—Yes, I have, and the expense. I think the substantial reorganisation that I suggest is in the Registrars Office; I think that is overstaffed, and I think too much money is spent upon it.

47,363. I was referring for the moment to people appointed as clerks being promoted to masters. Is there not another point of view. I suppose the officers of the courts to a certain extent are put there to see that things are done rightly, to watch over the interests of the public?—Yes.

47,364. I mean as against the profession; but, at any rate, they have to see that orders are drawn up rightly and rules observed?—Yes, and they do very responsible work too.

47,365. To a certain extent, if those officers were recruited almost entirely from solicitors or solicitors' clerks, is it not rather like making the qualification of a gamekeeper that he has been a poacher?—Yes, to some extent it is; but then the poacher has by his poaching acquired a knowledge of the habits of the game—and it is just that knowledge that a managing clerk is acquiring while he is with a solicitor—he has acquired knowledge of how the work has been done, and anybody appointed fresh from outside, say, a banker's clerk, or an accountant's clerk, appointed to do the work of a solicitor's clerk, would for a very considerable time make, I think, a great mess of it as a rule.

47,366. You do not think that there is any reason for being distrustful, so to speak, of any one appointed from the profession on the ground that he might be got at? I know very little about the working of the courts, and I cannot speak with any experience, but you do not think there is any danger of that?—No.

47,367. The clerks in the office are not put there merely as watch-dogs?—No, not by any means.

47,368. But they are there to help the public?—They are there to help the public—to carry out the work of the public. They are not there merely to criticise; they are there to act.

47,369. You are satisfied as a rule with the Service as it is now, and you think the system of competition for filling up the places of the clerks is quite unsuitable for it. In a solicitor's office what class of people do you draw the clerks from?—Some of my managing clerks are sons of barristers' clerks. My shorthand clerk is the son of a coachman. They really come from all classes. Many of my clerks are sons of former clerks.

47,370. At what age do they come in?—We like to catch them young.

47,371. How young?—Soon after they leave school—about 15 years of age.

47,372. The elementary schools?—Yes, that is about what their education is as a rule. Many of the best of them—and that is one of the things we look out for—go to evening schools and polytechnics and places of that kind to try and improve their education, and if we find a boy doing that we like to keep our eye on him.

47,373. How do they pick up their knowledge which is so valuable afterwards for the public service?—They go about first of all as bag carrier to a managing clerk, and go in and out of the various offices in the Law Courts building, and gradually they are allowed to do more responsible work as they become more useful, and ultimately they become managing clerks themselves.

47,374. In that way do they acquire the knowledge that is required in the Central Office or Chancery offices?—Yes, they do; and it is only in that way, in my opinion, that they can acquire the knowledge.

47,375. Do you mean that if you take a boy, for instance, coming from a public school, presumably more highly educated than the boys you pick up in a solicitor's office, and put him into the Chancery offices, he would not pick up in the Chancery offices the same sort of knowledge that is brought by a boy who begins at the bottom, sweeping out the office, or carrying the bag, or whatever it is. Would not he pick it up much more quickly than a boy who comes in from your office?—Certainly not.

47,376. Why not?—Because he would not have the practical knowledge of having done the work himself.

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47,377. Practical knowledge? Do you mean to say he must carry a bag to start with?—He must go about amongst the various offices, do the work himself, and see how the work is done. These offices are connected with one another a good deal, and if you took a boy from a public school and put him into the Chancery master's office straight away, he would have no knowledge at all of how the work in the paymaster's office was done, and, perhaps, half his work in the Chancery office would be drawing orders which were to be acted upon by the paymaster.

47,378. Surely a week's training in each office would give him that experience?—I do not think so; I do not, indeed. That knowledge is absorbed; you cannot get it by reading books.

47,379. Your proposal, it seems to me, is directed more to taking off the shoulders of the higher classes in these offices the training of their men. As it is now, the training is done by solicitors outside. It might be done by the higher officers in the public offices if there was more trouble taken, but you think the more concentrated knowledge gained in that way is not so valuable as beginning at the bottom and working up?—I do not think anybody would ever train them to do it. If I may use a simile, it would be trying to teach a man how to shoot with blank cartridge; he must do the actual thing himself.

47,380. (Mr. Shipley.) Is it usual amongst solicitors to give a pension to their clerks?—There has always been a custom in our office to pension clerks. We have always pensioned them. They have no right to it, and there is no superannuation fund or anything of the kind.

47,381. I suppose you fix the amount by talking it over amongst yourselves?—Yes, and considering what the clerk has done, and how long he has been in our service.

47,382. And promotion goes by merit and not by seniority?—Certainly, by merit entirely.

47,383. (Mr. Matheson.) With regard to the third class clerks, do your remarks apply to the clerks in the Probate Registry as well as those in the other big departments?—I am afraid my experience of the Probate Registry is not very great, but I do know something about it.

47,384. There seems to be a complaint of stagnation in the third class—I mean want of promotion. Have you come across that at all?—I do not know how that could be remedied.

47,385. At present there is no compulsory age for retirement of the clerks?—I did not know that there was not any in the Probate Registry. I thought all Civil servants had to retire at some age over 60.

47,386. (Chairman.) We have it in evidence that in all the legal offices there is at present no fixed age for retirement?—I did not know that.

47,387. (Mr. Matheson.) That is a very important question. I want to know whether you think, without some compulsory age for retirement, you can really provide adequately quick promotion; but if you have not considered it, I will not press the question?—I would not like to offer an opinion upon that. I rather came here to talk about it from my side of the table and not from the official side of the table. I am not prepared to discuss the terms of retirement.

47,388. There seem to be two possible ways of treating third class clerks. One is to say to them when they come in: "You will remain a third class clerk unless you show very exceptional ability, in which case you have a chance of promotion to the second, and, ultimately, to the first class." The other alternative is to say to them when they come in: "You may expect to rise to the second and the first class." The latter, I understand, is the present arrangement. Which do you think is the better?—I think it would be a great pity, as I said just now, to put any difficulty in the way of promoting a clerk from the third class to the second, and from the second class to the first class. I think you should be able to do it always, but that it

should only be done if the selecting body is satisfied that the clerk is worthy of promotion.

47,389. But it makes a great difference whether you say "We are going to promote you if you are up to the average of a clerk," or you say, "We shall promote you if you show exceptional ability"?—I do not think they should have any right to, or, if I may say so, expectation of promotion beyond the fact that if they are entirely satisfactory they will be promoted, and that they will have a better chance than a man outside.

47,390. (Bishop of Southwark.) Do you think those cases of promotion would be very rare?—What cases?

47,391. You were speaking of promoting from the third to the second class, and so on, without making any real bar between the classes?—I should hope that they would be very numerous, and that the general rule would be that the man in the third class would prove himself worthy of being promoted to the second.

47,392. And even into the first class?—And thence to the first.

47,393. And it would be not uncommon?—No, I should hope it would be frequent. I think it would be.

47,394. You spoke of a list drawn up in the order of merit; who should draw up that list?—I rather hoped that you would decide on some body of selection. Whether it should be for the whole of the Civil Service or a separate body for the legal departments, I do not know. But it seems to me that it would be much less invidious if it were a committee. If it were to be confined to the legal departments I should think a committee composed of some of the judges with the assistance of some of the masters would be the best body for recommending the men to whoever would make the actual promotion subject to their recommendation.

47,395. I suppose ultimately it comes to the question, who has the means of selecting, and who has any knowledge of, and who is in contact with the people themselves?—I see no difficulty about that at all. The masters would have the means of knowledge and would know all the staff.

47,396. A master would be in such direct contact that he would be able to discriminate between the merits of the one or the other clerk?—Certainly.

47,397. Then I am not quite clear about the general trend of your argument. The impression you have given to my mind is, that on the whole the system, especially in the higher administrative parts, works satisfactorily?—I could not suggest any better system, and I think it works satisfactorily.

47,398. On the other hand you created the impression in my mind that there is a body of people with legal experience, namely, solicitors, who are much better qualified to hold a great many of these posts?—Such posts as taxing masters, and masters in Chancery, which are really solicitors' work distinguished from barristers' work. With regard to the masters of the Kings Bench Division I do not say so much, and I do not think there is such a distinction; but, on the other hand, I have said that one of the best King's Bench masters I ever knew was a solicitor.

47,399. Would the work be better done if those people were appointed?—In the King's Bench Division I do not think I could say it would be better done, but I could say it would be far worse done if barristers were appointed to be masters in Chancery or taxing masters—there is no doubt whatever.

47,400. (Chairman.) In the three departments where you think the solicitor's qualification is essential, namely, the Chancery Masters, the Chancery Registrars, and the Taxing Masters, they are at present, with one exception in the case of taxing masters, entirely solicitors?—Yes, they are.

47,401. (Bishop of Southwark.) Our main object, as I understand it, is to see that the public is served most efficiently?—I think you would have the public served best and most promptly if you confined those three offices to solicitors who have knowledge of solicitors' work.

Mr. FREDERICK CHARLES GOODCHILD, called and examined.

47,402. (*Chairman.*) You are managing clerk to Messrs. Trinder Capron & Company?—Yes.

47,403. And you have occupied that position for a long time?—About a quarter of a century.

47,404. Of which of the legal departments have you had special experience?—I had experience in Chancery for about 20 years, but during the last 25 years I have been exclusively engaged in the King's Bench and Bankruptcy.

47,405. Which are the offices with which you mostly come into contact in your work in these departments?—The Taxing Office, the Crown Office, the Summons and Order Department, the Writ Department, the Associates Department, and the procedure in the Commercial Court.

47,406. Does your business frequently lead you to appear before the masters?—Very frequently.

47,407. Apart from the masters, have you frequent contact with the first and second class clerks?—Very often.

47,408. Not so much with the third class?—The third class are left more to the junior clerks in the office to deal with.

47,409. Dealing with the question of the manner in which the clerks are appointed, do you think the results of the present system satisfactory?—I do not think they are satisfactory in some respects. The third class clerks are, with very few exceptions, confined to mechanical duties, and it matters not who is appointed to those places. The second and first class clerks have to exercise judgment and discretion, and that necessitates a very large acquaintance with the general practice and procedure.

47,410. Does the third class clerk not acquire that experience in the course of his work?—No, because the ambit of his duties is so restricted. For instance, a third class clerk issues the summonses at chambers, or files documents in the Filing Department. All he has to do is to exercise ordinary care, and to fill up and put the seals on documents, which work requires no very great amount of intelligence. That is why I say it is, in a sense, mechanical.

47,411. What is your inference from that?—My inference from that is, that a third class clerk, who chooses to enter the Service as a third class clerk, need not necessarily aspire to a higher position, unless he is a man of exceptional ability. Supposing, for instance, the head of his department thought he had developed a large amount of intelligence, which would qualify him for a higher post, then I should not shut the door to him; but, as a rule, the third class clerk is a junior clerk.

47,412. Then the result would be that, as a rule, direct appointments would be made to the first or the second class, and not by promotion from the third class?—That is my idea.

47,413. But you would leave the door open for promotion in exceptional cases?—Just so.

47,414. In that case, at what age do you consider the third class should be recruited?—It would depend, rather than age, upon the number of years a man had been in a certain office.

47,415. Do you consider that for appointment to the third class any legal experience is necessary?—It is not absolutely necessary, but if the third class clerks were recruited from junior clerks in solicitors' offices, I think they would much sooner acquire a knowledge of their full duties.

47,416. But the mechanical duties you have described would not take any intelligent youth long to learn?—When I say "mechanical" I do not mean purely mechanical; there must be a certain amount of care and knowledge. For instance, a third class clerk taken, say, from a source other than a legal source would be quite ignorant of the procedure and the necessity for this, that, or the other; whereas a junior clerk in a solicitor's office would know the reason for this, and the necessity for that, so that he would sooner acquire a full idea of his duties. I do not press the point. That is the only distinction I draw.

47,417. It would be merely a question of time; he would pick it up quicker?—Purely; and not a question of intelligence.

47,418. If you had that system which you suggest, in which promotion from the third class would be quite exceptional, would you get sufficiently good candidates for the third class, seeing that they would have no prospect of rising beyond an ultimate salary of 200*l.* a year?—I think so; but may I say that I do not think it wise to promote a third class clerk into another department. The promotion should be in the same department in which he is engaged, for this reason: The duties in the Summons and Order Department are very different from the duties in the Writ, Judgment, and Execution Department. If he were promoted from one department to the other, he would have to begin to learn the duties of the new department.

47,419. We have been told, I think, that at present it is the system to move the third class clerks round to each department, in order that they may get a general knowledge of the work?—That, I think, is a waste of time, because the clerk has to begin *de novo* and learn fresh duties, whereas a junior clerk appointed from a solicitor's office would be acquainted with every department in the courts, and if he were appointed to a third class clerkship there would not be the same objection to transfer him from one department to another.

47,420. But if the work of the third class clerk is, as you describe it, easily acquired in a short time, the inconvenience that arises from moving from one department to another would be very passing?—Of course, "a short time" depends to a great extent upon the intelligence of the clerk.

47,421. Assuming you have a reasonably intelligent clerk?—Yes; but even then we come in contact, or rather the junior clerks in the office come in contact, with the third class clerks, and very often have to teach them their business. I do not think that should be so.

47,422. But a clerk in your office has no difficulty in learning the work all round in all the departments?—Quite so; it is his duty.

47,423. Why should it be so much more difficult for a clerk in the legal offices to learn the work in the different departments than for a clerk in your office, who has not only that to do, but a great many other things as well?—Because a junior clerk in my office would already be possessed of the necessary knowledge to enable him to go to any department in the legal offices.

47,424. But he must have acquired that knowledge at some time?—Yes; in a solicitor's office.

47,425. Why should not the clerk in a department acquire it quickly?—Because it is rather difficult. A junior clerk in a solicitor's office has to know the routine and the requirements of every department in the building. That is his duty—he is not an efficient clerk until he knows all that—so that he can go indiscriminately to one or another department, and he knows exactly what is required there; whereas a third class clerk, appointed originally, say, to the Filing Department and transferred to the Writ Department, would never have heard of a writ, and he would not know the reason for the existence or routine of the office.

47,426. Would not he very soon learn it?—That depends a very great deal upon the clerk.

47,427. The effect of your suggestion would be that a man who at the age of, say 20, enters the Filing Department would do nothing for the whole term of his natural life, until he retires at the age perhaps of 70, but file affidavits?—Unless there is an opportunity in his particular department of promotion, and he is in a position to take that promotion.

47,428. And even if he is promoted you suggest that he should be promoted in the same department?—Yes.

47,429. Where his work would merely be a higher form of filing affidavits, if there is such a higher form?—Of course, there is superintendence required.

47,430. Would not the tendency of such a system be to produce an extremely narrow and mechanical type of man after 20, 30, or 40 years of filing affidavits?—I am afraid that would be a necessity.

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[Continued.]

47,431. But is it a necessity?—I think it is in the purely formal departments.

47,432. At present the system is to move the man about?—Yes.

47,433. Do you find that that produces inefficiency?—I do, and I can instance it in two cases. A first class clerk in the King's Bench Division, very experienced in his department, was transferred to the Chancery Division, of the procedure of which he knew absolutely nothing.

47,434. That is a more drastic procedure than that of which we were speaking, which was transfer between the different branches of the Central Office dealing with the King's Bench work?—It is a question of degree, and I am illustrating that as an extreme case. He was receiving his maximum salary, and he received an additional salary in order to learn the work of the Chancery Division. That, I consider, was a waste of time. He was very efficient in the department in which he was put. Another instance was where a gentleman was moved from the Central Office to the Chancery Department, and it was not a success; he was then moved to the Taxing Office, and that was not a success; and I really have lost sight of him now. But it illustrates in a degree what I was suggesting with regard to transferring clerks to different departments—even to the extent of first, as well as second and third class clerks.

47,435. To go back to the question of appointment, you suggest that appointment should be made direct in the majority of cases to the first or second class?—Yes, except in cases where promotion takes place.

47,436. At what age do you suggest that appointments should be made, and from what source?—I would rather suggest that age does not enter into consideration so much as efficiency.

47,437. Do you suggest that they should be usually appointments to the second class with subsequent promotion to the first class?—Yes, I think that is essential.

47,438. From what source do you suggest the candidates should be drawn?—Speaking in quite a disinterested way, because I do not suppose it would affect me personally, I think the best source is from efficient managing clerks in solicitors' offices.

47,439. What length of experience would you suggest as necessary?—I do not know that I should limit the length of experience, but the selection should be made by those high officials with whom the managing clerk comes in contact—who should recommend his appointment. I do not think it would be wise to fix a limit to the age.

47,440. But without going into the question of fixing a limit, normally what age would you consider suitable?—Other things being equal, I should say from 35 to 40.

47,441. That would be a man with 15 to 20 years' experience?—Yes, I should not be inclined to place it lower than that.

47,442. And you suggest that the selection should be made by the high officials with whom he comes into contact; that is to say, I presume, by the masters?—The masters or the judges, or whoever it may be.

47,443. Do the managing clerks often come into direct contact with the judges?—Very often.

47,444. In chambers?—Every day, and in court, in the Commercial Court as well.

47,445. Not in the other courts?—Not when the judge is sitting on the bench, but in the Commercial Court the managing clerk conducts interlocutory applications very frequently.

47,446. Would the present scales of pay for the first and second class be sufficient to attract the class of men of whom you are speaking?—I am afraid I am not sufficiently acquainted with the rates of pay.

47,447. The rate of pay of the second class is from 250*l.*, rising by increments of 15*l.*, to 400*l.*, and the rate of pay of the first class is from 500*l.*, rising by increments of 20*l.* to 600*l.*, with higher pay in some exceptional cases?—I think the first class would certainly attract them. With regard to the second class, it would depend upon the age of the candidate in ques-

tion. He might be inclined to enter at that salary with the prospects in view.

47,448. With the prospect of promotion to the first class?—Yes, with a rising salary up to the maximum of the second.

47,449. You think that a thoroughly good man of 35 years of age, with between 15 and 20 years' experience in a solicitor's office, would be attracted by it?—He might be; but it might be a question whether, in a particular case, he should not begin at 300*l.*

47,450. As regards the present organisation of the offices, do you consider that it is satisfactory?—On the whole it is very satisfactory; in fact, I do not know a time in my experience when, speaking generally, I have to be thankful for so good an organisation.

47,451. The work is done promptly and without delay?—Speaking generally, yes.

47,452. And with accuracy?—With accuracy and courtesy, and everything which is desirable.

47,453. As regards the hours of attendance, the offices at present are open from 10 to 4 in term time, with shorter hours in vacations?—That is so.

47,454. Do you consider that those hours are suitable?—I do not think they could be improved upon.

47,455. Would there be any advantage in lengthening them?—I do not think so. I think it would be a disadvantage.

47,456. The practitioners do not want to have longer hours?—No, there are conferences and consultations after 4 o'clock with counsel. One has to conduct one's correspondence and do general office business after 4 o'clock, and if the hours were extended I think it would be an inconvenience.

47,457. As regards the vacations, it has been suggested to us that a more liberal interpretation might with advantage be given to "Vacation business"?—I think that would be an advantage.

47,458. It was also recommended by the Royal Commission on Delay in the King's Bench Division that the masters should work at full power for a certain period after the Courts rise and before they resume. Would it, in your opinion, be advantageous if that recommendation were carried out?—Not in that way; but if there were two vacation masters instead of one, that would, I think, meet all the requirements.

47,459. Throughout the whole vacation, or only at the beginning and at the end?—Throughout the whole vacation.

47,460. At present there is no fixed age for retirement either for masters or for clerks. Do you consider that it would be desirable to fix an age limit, as there is one fixed in the rest of the Civil Service?—I do not, because if a man is physically fit, the older he is the more experience he is capable of giving off.

47,461. Have you ever known cases in which officers have continued at their work after they have become less physically or mentally fit?—Not in modern times. In the times before the Judicature Act, when we were under the Common Law Procedure Act, it was a common fault; but in modern times I cannot recall any one who has been continued in office who has not been mentally and physically fit.

47,462. You have not known any such case?—No.

47,463. Have you any suggestion to make as regards the Commercial Court?—It has occurred to me for some time past that it would be a convenience to the Court and to the profession if a clerk of sufficient standing were appointed to be the clerk to the Commercial Court. At present the judge's clerk acts in that capacity in issuing applications; but there is a rotation of judges in the Commercial Court, and it is desirable that there should be a continuity of practice in that court, especially when one remembers that the practice in the Commercial Court is to a very great extent unwritten, and is only known to the practitioners in that court. There is more elasticity of practice in the Commercial Court than is given under the rules of the King's Bench proper.

47,464. Are the differences very great?—"Great" is a comparative expression, if I may say so; perhaps I had better explain. On interlocutory applications in the Commercial Court a judge makes an order. That orders implies, or may imply, various other things;

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that order is drawn up by a clerk in the Order Department who is quite conversant with the practice under the rules of the Supreme Court, but is not conversant with the practice in the Commercial Court and it amounts to this, that we always draw up our own orders in the Commercial Court, and if we have sufficient reputation with the staff of the Order Department they take our word that it is the proper order which was made.

47,465. In all King's Bench business you draw up your own orders, and you can take them to the Order office?—I do. I think it is pretty general.

47,466. We understand that the practice is almost universal?—Speaking for myself, it is universal.

47,467. So that in that respect there is no difference between the Commercial Court and the other courts?—Except that there are things in the Commercial Court which are not the subject of any written rules.

47,468. (*Mr. Coward.*) Such as what?—My Lord Mersey would be able to tell you more about that, I think. It is to a certain extent a give and take process that goes on on an application. The judge expresses his general opinion on an application which embraces various matters, and then he says "I think so and so" "ought to be done, and you ought to do so and so." That does not appear in the written order, and indeed it is dependent on the honour of those who ought to carry it out.

47,469. I do not know whether Lord Mersey follows this, but I am bound to say I do not quite know what you mean. If you would kindly give us an illustration I should follow it better?—An order may be made by the Commercial judge, and he may say "on the usual terms."

47,470. But what order?—There are so many divers orders that I should find some difficulty in particularising one. There is an amount of elasticity in the Commercial Court, which is not observable in the other parts of the work.

47,471. (*Chairman.*) But the "usual terms" would be perfectly well known to practitioners in the court?—Yes; but it would not appear on the face of the order.

47,472. And there are a large number of such orders?—Several. I would not say they are very large in number, but the difficulty we find is when we come to taxation and there happens to be a difference of opinion.

47,473. If such orders are numerous do the "usual terms" not become known in the Order department of the Central Office?—They are not expressed on the order. The order says "On usual terms"; then it is a question, on a fight on taxation, what was intended to be meant. I am taking that as an illustration.

47,474. The "usual terms" being generally questions of costs?—No, not necessarily. For instance there may be an examination of a witness *de bene esse*, and the judge may intimate that before that takes place the party applying should disclose his documents. That is not necessarily a part of the order, but it is a matter of honour between the practitioners that they carry out the wish expressed by the judge when he makes the order, and it is not incorporated in the order.

47,475. Does it amount to this, that in that court the orders are less explicit and leave more to be filled in according to customary practice than is the case in any other courts?—Yes; and the practice of the different judges is not always identical. I think a clerk attached to the Commercial Court would be of assistance. For instance, if one judge took a certain course on a question of practice it is very awkward if the succeeding judge makes a different practice. I base that suggestion mainly on the necessity for having continuity of practice in unwritten matters which come before the Court. I do not think I can put it higher.

47,476. And you think continuity of practice cannot be secured if the work is done in the Central Office?—I do not think it can be—not effectively.

47,477. Have you any observations to make with regard to the Taxing Office?—Yes, I think it would be a benefit to the public service if, saving the rights of the present holders of the office, taxing masters were recruited from first class clerks in the Taxing Office and

from managing clerks of experience. I distinguish between the importance of the office of taxing master and the office of chamber master in that respect.

47,478. In the case of chamber masters you are not in favour of throwing the office open to promotion from the first class clerks?—Absolutely not.

47,479. But you would be in favour of throwing it open in the case of taxing masters?—Certainly, because at present a great deal of the work of taxing is done by some second class clerks and by many first class clerks. In addition to that it is not an unusual practice for a legal arbitrator to refer a bill of costs to a managing clerk. It has also been the practice—not very extensive truly—that on the eve of the vacation, when the taxing office is extremely full, for the parties to an action to agree to refer the bill for taxation to a managing clerk as if he were a taxing master.

47,480. Is that not permitted at present?—It is a question of arrangement between the parties.

47,481. Supposing the parties agree, is it not open to them to do that at present?—Yes, if they agree to be bound by the result. But it is not very extensively adopted.

47,482. That is a thing which could be done without any alteration of rules?—Quite.

47,483. (*Mr. Coward.*) The point, I suppose, is that it shows that the managing clerks are competent to do that kind of work?—That is so.

47,484. (*Chairman.*) But it has been represented to us by another witness that in the case of the taxing masters the experience acquired by clerks in the office does not give them the breadth of view and general experience of solicitor's business which is important for the purpose of the discretion which the taxing master has to exercise?—I do not agree with that, partly for the reason that many of the first class and second class clerks have come from solicitors' offices, and that is their qualification.

47,485. The majority, if not all of them, have been promoted from third class clerks, have they not?—I cannot say. If I see a gentleman in an office I do not know whether he is a third or second class clerk. The distinction is not obvious on the face of it. But I do not think that third class clerks are at all necessary in the Taxing Office. I should prefer to see second and first class clerks.

47,486. Is there not a considerable amount of mechanical work—casting bills, calculating folios, and so on?—Judging folios is done by experience and not by counting. It is a calculation, but one accustomed to look at a brief can say how many folios there are. I should say that that was intellectual rather than mechanical.

47,487. (*Mr. Coward.*) It is difficult to do when there are figures in the brief, is it not?—Not to one accustomed to it. I should say that there was not much difficulty to one accustomed to deal with it, even in the case of briefs with figures; you can see it at a glance. There is not the mechanical work that there is in other departments. A casting is generally agreed between the parties.

47,488. (*Chairman.*) According to the evidence that we have had, third class clerks are responsible for the castings?—There are only two clerks to each taxing master—one first class clerk, necessarily, and a second or a third class clerk. My idea is that the first class clerk could materially assist the taxing master, and the second class clerk could do the first class clerk's duty, so I do not see the opening for a third class clerk at all in the Taxing Office.

47,489. The clerks who are there at present, you think, are suitable for the taxing master's office?—Speaking generally, I do not think you could improve them.

47,490. Have you any observations to offer as regards the Bankruptcy Department?—I do a great deal of Bankruptcy work, and come daily into contact with the officials there, particularly the registrars' clerks. I presume the official receiver's clerks come under a different category—they are under the Board of Trade. I should like to say also that the examiners to the official receivers are most excellent men, and very capable. The judicial clerks in the Bankruptcy

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Courts, namely, the clerks to the registrars, are equally efficient. We had a series of very old and experienced clerks to registrars until quite recent years, and it was a source of very great anxiety to me, when they gradually died or left for one cause or another, what class of clerks we should have to succeed them, but I am very pleased to say that those clerks have come up to every expectation.

47,491. The Commission has not yet had evidence in regard to the Bankruptcy Department. Can you tell us how those clerks are recruited? Are they promoted from the third class?—I do not know. I do not recognise them as being clerks in the Central Office; in fact it would be impossible that it should be so, because Bankruptcy is a practice of its own.

47,492. I mean promotion from the third class clerks in the Bankruptcy Department?—No; I should think they ought not to be eligible for that.

47,493. (*Mr. Boutwood.*) You said something about a third class clerk being of the stamp of a junior clerk. I suppose you wanted to indicate a certain type of mind. As the first and second classes now are filled by promotion from the third, that suggests this question: Do you find in the first and second class any indication of the "junior clerk" type of mind owing to the posts being filled up in that way?—My experience with the first class clerks, speaking generally, is that they are very old servants, and I cannot remember when they were in the third class. They have grown up with the practice under the Judicature Act. I cannot associate in my mind any particular first or second class clerk with one who was formerly a third class clerk. The divisions of third, second and first class are not obvious to those who appear on the other side of the table; it is only by long contact with them that one knows them.

47,494. What I had in my mind was this: You were arguing in favour of some direct method of appointment to the first and second classes, and I imagined you would regard that as an improvement on the existing practice?—Provided that the position of those who are in the office at present is saved. I should not put it in opposition to them.

47,495. Then I wondered whether you were merely pressing a theoretical point, or whether you had noticed any obvious defect or disadvantage under the present system which you thought your proposal would rectify?—No, because I come into contact with those in the different departments who are there to exercise their discretion and judgment, and I assume that they are second or first class clerks, and I have known them for very many years. I do not recognise them as promotions from the third class; they may be.

47,496. I had some difficulty in following the reasons you gave against a transference from one department to another. Is this at the bottom of the whole thing, that when you get a boy in a solicitor's office he has not at all specialised; he starts by carrying the bag, as we have been told, and from the very beginning, so to speak, he is more or less in contact with the offices as a whole, grips the thing as a whole, sees it all round, and sees all parts of it, and gradually he becomes specialised with a certain general knowledge behind him. That is one state of things; but then, if you put a man into one of those departments—the Filing Department or any other department—he specialises from the very beginning, and is not in contact with the rest of the office. Is that the contrast you had in mind?—Not quite. Perhaps I do not make myself quite clear when I was speaking of a junior clerk in a solicitor's office. By a junior clerk I meant one who is accustomed to attend chambers, to issue proceedings, to draw up orders, and do various other things connected with the various departments. I do not mean a junior clerk in the office, but one who is out in the Law Courts—in other words, an assistant to the managing clerk. I would not advocate the appointment of a junior clerk whose duties are to sit down in the office all day; he would, of course, be in perhaps a worse category than the third class clerk who is appointed at present. I meant one who comes in contact with and has to do a day's work in the Law Courts by issuing summonses, drawing up orders, signing judgments, issuing executions, and doing the formalities in con-

nection with the taxation of costs. He has a very intimate acquaintance with all the departments, and comes into direct contact with them. That was the kind of clerk I was indicating.

47,497. (*Mr. Coward.*) You were talking about the lengthening of the hours, and you objected, I think, from the standpoint of a solicitor and a solicitor's managing clerk, that is to say, you thought it would not do to have the chambers open after 4 o'clock. That was the kind of view you had?—That is so.

47,498. Do not you think it would be very desirable that the hours should be extended if it did not interfere with solicitors at all, that is to say, supposing you could reorganise the work of the Central Office so that the masters and their clerks should be able to do a reasonably ordinary day's work, as other people outside have to do?—I do not think extending the hour after 4 would do.

47,499. That would depend upon the organisation. If you could organise it so that they should be there, for instance, until 6 o'clock, one would think that you might do without such an enormous staff as there is to-day?—The difficulty would be this: 6 o'clock is the time limit for serving proceedings on the other side, and if the offices were open up till 6 o'clock—

47,500. No; I am excluding that. I said if you could reorganise the work that is done so that the offices should be closed to the public at 4 o'clock, but that the work should still go on, and the masters' clerks should be at other work until 6 o'clock, you would probably be able to effect great economy, would not you?—As a matter of fact, one department—the Order Department—is open up till 5 o'clock, because an order may be made up to 4 o'clock, and that has to be perfected in the Order Department.

47,501. I did not know that?—I think that is so; whether the hours have been changed recently I do not know.

47,502. My point is, that if you could extend the hours of work of the masters and their staffs beyond 4 o'clock without interfering with the solicitors, your cause of complaint would be removed?—Assuming that there was work to be done. But in the Writ Office the work is entered up each moment, and there are no arrears at 4 o'clock.

47,503. I can understand that there may not be, but the hours are exceedingly short for such work as is done. I should think you would call 10 to 4 absurd hours to work. What are your hours?—Ten o'clock in the morning to half-past 11 o'clock at night, very often.

47,504. I suppose you would say that in a solicitor's office in the City, or anywhere, the hours of 10 to 4 would be laughed at. You would say it is absurd. You never enjoyed it yourself, certainly?—No, I have not. If you extended the hours it would have a reflex action on the office hours of solicitors as well.

47,505. I do not see that at all. Close the office at 4 o'clock to the solicitors. What is the difficulty about that?—Then I do not think there would be sufficient work to keep them beyond 4 o'clock, except in certain departments. In the Bankruptcy Department and in the Chancery Division the clerks do not go at 4 o'clock.

47,506. Wherever they have work to do which requires the perusal of documents it would affect it, because they could do it after hours?—Yes, and they do that, as a matter of fact, now.

47,507. But could not it be done to a greater extent?—The test of that is whether they are up to date the next day.

47,508. But I think you will agree with me that your objection to having the offices open after 4 o'clock, or to having the masters or clerks there after 4 o'clock, is because it would interfere with your business as a solicitor?—That is so.

47,509. Remove that and the objection is gone?—Quite.

47,510. (*Lord Mersey.*) Can you tell me what work could be done at these offices after 4 o'clock?—In some offices none; in other offices some, such as the perfecting of orders, in the Bankruptcy Registrars Office.

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47,511. Is the work of perfecting orders done after 4 o'clock?—Yes. In Bankruptcy certainly, and in the Chancery Offices.

47,512. As a rule, as I understand, solicitors who have their business to do at these offices do not want the offices open after 4 o'clock?—That is so.

47,513. Their business takes them back to their own offices, which is much more important?—Yes.

47,514. I want to know what work the Central Office could do in the absence of the solicitors?—Take, for instance, the Bankruptcy Department, at half-past 3 I get a receiving order, and the registrar has done with it when he has made the order. Very many forms then have to be filled up, and they are left with the registrar's clerk to be called for the next morning, and that work may take the registrar's clerk half an hour after 4 o'clock.

47,515. Is that work not done after 4 o'clock?—Frequently; but the solicitor is not necessarily there.

47,516. No; the solicitor is not wanted for that, but the work is done?—The work is done; and in the Taxing Office it is very often the case that they wait after 4 o'clock to complete matters. Sometimes I have been as late even as 5 o'clock before the taxing master.

47,517. The question that arises in my mind is this: supposing there was a rule that the clerks were to remain until 6 o'clock, what do you think they would be doing between 4 and 6 o'clock?—In the majority of cases, nothing.

47,518. They would have nothing to do?—They would have nothing to do, because their work is up to date. Take, for instance, the Writ Department: When an appearance is tendered it is entered immediately, for fear that the solicitors for the other party might come and enter judgment in default of appearance. Those books are kept up instantaneously; and that applies to many of the other departments.

47,519. (Chairman.) Would it be the case that in the Chancery departments there is a great deal of work which is not dependent on the presence of practitioners?—I am afraid my modern experience in Chancery would not be very valuable, because I do not go into Chancery now, and have not done so for 25 years.

47,520. But there is a large amount of perusal of documents and administrative work that is not neces-

sarily dependent on the presence of practitioners?—A great deal.

47,521. So that that work could be done in hours when the office was not open to practitioners?—Quite so.

47,522. (Sir John Kempe.) What sort of length of service would it require to turn out a junior clerk fit for helping a managing clerk at the courts in work such as you described just now?—It is rather difficult to answer that question. As a rule, I should not take an assistant with me who had not had experience in other offices. My present assistant has been with me over 20 years, and therefore he knows exactly what my ideas are, and consequently he is of very great assistance. But in other cases it depends upon their experience entirely. We find a difficulty sometimes in getting a competent clerk, unless we can hit upon one who has had some experience or who is amenable to teaching, but I cannot fix any arbitrary time.

47,523. Would you turn one out in two or three years? Have you ever known a case where a man in two or three years would learn his duties sufficiently?—Yes. I have had clerks—quite virgin soil—and I have turned them out for practical purposes in that time.

47,524. Then it is quite possible for an intelligent man to learn his duties in two or three years?—If he is willing to learn them, and is sufficiently intelligent.

47,525. Quite sufficiently intelligent to be appointed a clerk in the Supreme Court or the Chancery offices?—I should say so.

47,526. (Mr. Shipley.) When you work until half-past 11 at night, does that mean that the offices of Messrs. Trinder, Capron & Co. are open and I could get at you at 10.45 p.m., or do you take work home?—I very seldom take work home. You can certainly find one of our partners there until 9 or half-past, and even later.

47,527. Are you open to the public then?—No, we are preparing for trial and putting matters into shape.

47,528. I believe quite a lot of lawyers in Edinburgh see clients at very late hours?—I am afraid we do not keep such late hours in the city.

47,529. Mr. Tulkinghorn, in "Bleak House," was, at any rate, accessible until very late at night?—I remember the time when solicitors' closing time for their offices was nine o'clock, and judges' chambers sat until eight o'clock.

Mr. WILLIAM JOSIAH DISTURNAL, K.C., called and examined.

47,530. (Chairman.) You are a King's counsel and Recorder of the Borough of Dudley?—I am.

47,531. The evidence you are about to give is on behalf of the General Council of the Bar?—Yes.

47,532. In what division is your practice as a barrister?—Mainly in the King's Bench Division.

47,533. Have you much experience of chamber practice?—Yes. From the time I was called up to the time I took silk, somewhere about 28 years, I had very considerable experience of practice in chambers.

47,534. So that what you are prepared to speak of is the work of the masters in the King's Bench Division?—That is so.

47,535. Particularly on the judicial side of their business?—Yes.

47,536. The Commission have already had evidence as to the method of appointment of the masters and their statutory qualifications. Will you give us your view as to the qualifications, as regards previous experience, which are necessary for masters of the King's Bench Division?—The view I take of it is this: The office of master in the King's Bench Division is apart altogether; it is an office entirely different to any other office of the courts, and, it seems to me, that the best persons to appoint would be barristers, as they are in fact now appointed, who have had some considerable practice in the King's Bench Division. The Act of Parliament only provides for five years' practice. The opinion I have formed—and I think it is shared by my colleagues on the Bar Council—is that that is not enough, and, in point of fact, I understand the present masters had considerably longer experience at the Bar before their appointment, some of them—I think, in fact, most of them—15 years.

47,537. Most of them, I should suppose, more than 15 years?—Yes.

47,538. So that the question of the exact statutory period of qualification is rather theoretical than practical?—No doubt it is. Of course, it is analogous to the case of judges. I believe, under the Judicature Act, a judge must be a barrister of not less than 10 years' standing, but one would be surprised to find that judges were appointed from barristers who had only had 10 years' experience; in point of fact, it is much longer.

47,539. (Lord Mersey.) How long had Lord Chief Justice Thesiger been at the Bar when he was appointed?—I am not quite sure, but he was an exception—one of the well-known exceptions. He was before my day.

47,540. Ten or 12 years, I think?—I understood it was somewhere about that time.

47,541. (Chairman.) Your opinion is, that in any case, it ought to be not less than 10 years?—Not less than 10 years. Really, the great asset in chambers is experience. It is not so much an accurate knowledge of the law; it is experience of the work. A man who has had experience of the practice can do it far more efficiently than a man who has got a great deal more learning and who has had only a little experience. That is what we find.

47,542. In your précis you speak of "10 years' practice," not of "10 years' standing." Is "practice" somewhat difficult to define?—Of course it is. If you define it by statute, I submit you will have to say, "10 years' standing," or some period from the date of call; but, in point of fact, I think that would probably be merely nominal in a great many cases, because

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men do not begin to practise, as a rule, for the first year or two.

47,543. By whom do you consider the appointment should be made?—It is very necessary that the person who makes the appointment should know something of the men he is appointing or of the candidates for the position, and he should know all about the duties to be performed. Now the Act of Parliament at present puts the appointments into the hands, as you know, of the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls, in rotation. Personally I see no reason at all why that should be departed from. It has worked very satisfactorily up to the present, so far as I know. The only possible suggestion that might be made is that men might be nominated by the Rule Committee or something of that kind, but it is a mere suggestion. I do not attach a great deal of importance to it.

47,544. Have those high officers actual personal knowledge of the candidates for such appointments?—I should think the Lord Chief Justice appointing men from the common law bar would always have direct knowledge of them, and I should think the Master of the Rolls, too, must have direct knowledge of them, because the men from time to time are appearing in the Court of Appeal where he habitually sits, doing appellate work, and very often appellate work from King's Bench chambers. As to the Lord Chancellor, of course, he would not have quite the same opportunity of seeing the men who do the work as the other two have; but there are means of inquiry which one knows.

47,545. The suggestion has been made to the Commission that the Lord Chancellor or other high appointing authority should be assisted by something in the nature of a standing committee, on which the officers of the department concerned should be represented, presumably the judges in this case, and possibly some outside authority (the Civil Service Commission was mentioned), and that a committee of that kind should report on the merits of the candidates, leaving the responsibility for the ultimate appointment with the high appointing authority. What do you say to a suggestion of that kind?—It would depend very largely upon the committee. I do not know quite what any person who was not a lawyer could say to the matter, or how he could assist at all. If you had judges who were constantly meeting the counsel who were likely to be appointed, that might do; but I should deprecate having a committee, for instance, on which the Bar were represented or any outsiders were represented. It seems to me that you must have it practically in the hands of the high judicial authorities. The suggestion I made—and it was a mere suggestion, because I had in my mind particularly the case of the Lord Chancellor, who is not so closely in contact with the men as the Lord Chief Justice and the Master of the Rolls—was that he might have nominations from the judges on the Rule Committee for instance. That is put forward as a suggestion. I do not attach a great deal of importance to it; but I should strongly deprecate having on the committee people who did not know the men and did not know the duties.

47,546. It has also been represented to us in evidence by a gentleman who is a solicitor that the experience of solicitors qualifies them quite as well as barristers for appointment to masterships in the King's Bench, and that those appointments should be open to both branches of the profession. You have already said that you think they should be open to barristers only. Will you give your reasons somewhat more fully?—It is difficult to concentrate the results of experience in a few words, but one knows from experience that the important business that is done before the masters is done by junior counsel; it is not done by solicitors. The best solicitors themselves do not appear in chambers except on the rarest occasions; they have a staff of managing clerks who attend to their particular business, and when they want business of importance done they go to junior counsel. Now the masters are dealing as specialists with all the preliminary matters in a common law action—most important stages in an action, because if the preliminary matters are not pro-

perly arranged, you cannot really get a proper trial. All that business is done by junior counsel and not by solicitors, and it seems to me that the men who have made it the business of their lives to do this kind of work would be the best men to appoint to the position. That, speaking generally, is the basis of it. I am not for an instant suggesting that there are not many solicitors who could be found to do the work equally well, but I am speaking of the matter as a rule. It does seem to me, apart from special exceptions, that you would be much more likely to find suitable candidates amongst the ranks of the common law Bar than amongst the ranks of solicitors. I do not think the best solicitors would take the position.

47,547. You have mentioned the preparation of all the preliminary stages of an action. Is not that a matter in which solicitors are concerned quite as much as junior barristers?—No, I do not think it is, in the sense that I mean. Of course, the solicitor comes into contact with a client first of all and receives his instructions. Taking the ordinary course of litigation, probably what is done is, he gets together certain materials which he thinks necessary in the matter, and, if the case is of any importance, he goes to junior counsel and takes his opinion as to the form of proceeding which should be adopted. Upon the opinion of junior counsel the process, writ, or whatever it may be, is issued, and that is prepared by junior counsel if it is a matter of any complication at all. Then an appearance is entered in the action, and there are various summonses and steps in the action which are all carried through—beyond ordinary routine matters—by junior counsel. The junior counsel prepares the statement of claim on the one side and the defence on the other; he prepares the interrogatories, and he advises on the evidence. Of course I am not a solicitor, and have never practised as a solicitor, but it seems to me that a solicitor's duty is the work of his office, seeing that the material that he is advised to get is got, seeing his client on the matter, and dealing generally with his client's affairs as a matter of business, rather than conducting an action in its various technical details. In point of fact, in practice, the people who do that work in the preliminary stages of an action are junior counsel, and the fact that they do it as a rule, as it seems to me, shows that solicitors find it convenient to instruct them. There is no technical rule which prevents a solicitor doing the work himself if he likes, but he usually instructs counsel to do it.

47,548. In simple and straightforward actions, does not the solicitor do it himself?—I should say that in my experience I have known very few actions indeed in which the pleadings on either side have been signed by a solicitor. I have not attempted to get out figures, but the number is infinitesimal. There was one well-known firm in London who, I believe, as a rule, did their own pleadings, but to my knowledge they have abandoned it now, and go to counsel to do the work for them.

47,549. As a rule the work would be done by counsel?—As a rule, in the vast majority of cases, it is done by counsel.

47,550. Your view is that it is that experience of a barrister which is specially valuable for subsequent work as a master?—Yes. Cases may be made or marred in their preliminary stages. If they are not properly presented or properly got up, and the issues not correctly defined in the pleadings, the trial is very likely to go wrong.

47,551. Will you develop the views which you have expressed with regard to some of the particular classes of business which come before masters?—I have, in the précis I have given to the Commission, taken out a few typical instances of a master's duties. Of course it was not possible to take more than a few instances. The first I put is what we know as a summons for directions. A summons for directions is issued after the appearance is entered, and that summons comes before the master, and the master has to make a forecast of the probable and desirable course of the action. He has to decide on the mode of trial, whether it shall be tried before a judge alone or with a jury, or whether it shall be sent to an official referee. He has to decide upon

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the place of trial. It may happen that the action may possibly be decided on a certain simple issue, whereas to try the whole would involve an enormous expense; and if the master sees that, by picking out certain issues, the matter may be conveniently and inexpensively disposed of, then he will say that that issue shall be tried before the others. He has to decide whether there shall be pleadings or not. When I say that, I should point out that in modern days it has been seen that pleadings are necessary in almost every case, so that the master practically always orders pleadings. But then, when the pleadings are delivered on each side, it may be said by the defendant: "This statement of claim is insufficient; it does not clearly indicate the case the defendant has to meet. I want particulars as to certain paragraphs." On the other hand the plaintiff may complain of the defence in the same way. The master has to decide upon all these matters, whether the pleadings are fair and clear, and whether they sufficiently define the issues which the Court has to try, and enable each party to understand the case he has to meet and so avoid the expense of an adjournment for the purpose of calling other evidence. You may have a very simple case where all that may be a mere matter of routine; but in the vast majority of cases you want a very great deal of knowledge and a very great deal of experience in order to decide these points.

47,552. Are not those matters of which you have been speaking—the forecasting of the probable course of the trial, settling what court it should go to, and whether it should go to a referee, and so forth—matters with which solicitors as well as barristers are continually dealing?—Some of the matters. A solicitor naturally knows, probably better than anybody, where the case should be tried. If it is a circuit case, he would say, "It is more convenient that the case should be tried on circuit than in London;" but I think in the majority of cases the solicitor would come to counsel and say, "Had we better have a jury—a special or a common jury?" and he would take the view of counsel on the matter. With reference to the pleadings the solicitor usually goes to counsel to draw them; the counsel signs the pleadings and the solicitor is not going to make himself responsible for somebody else's pleadings which he has paid to have drawn for his clients, so he takes the view of counsel upon a pleading. If any question arises on the pleadings he takes counsel before the master to support his own pleadings, or attack the other side's pleadings, as the case may be. That is the way it usually works out. Another duty, and a very important duty, which the master has to deal with on the King's Bench side is Order XIV. summonses. You may have an Order XIV. summons which may be a mere process in a debt-collecting business; but on the other hand, in a great many cases, the master has to have a very keen apprehension to see whether a real defence is made out by the affidavit, or whether it is something which is purely specious and merely for the purpose of delay.

47,553. (Mr. Coward.) He has only to decide whether or not there is a case to try?—Certainly.

47,554. If he comes to the conclusion that there is a case to try, there is no judgment under Order XIV.?—That is quite right, but one knows perfectly well that a man may owe a debt and there may be no defence to it whatever, except that he does not want to pay or cannot pay, but he makes an affidavit of some kind which, as a rule, is a very long one. That is a common thing for a defendant, who wants to get out of paying, to do; he makes a very long and elaborate affidavit, but when that affidavit is read there is absolutely nothing in it from beginning to end, and the master has to be able to appreciate the true position. If there is no probable defence shown, he ought to give judgment, or he may be doing the plaintiff a very great injustice by depriving him of his money altogether. Supposing the master decides that leave to defend should be given, he has then to exercise according to his experience very considerable discretion as to the way the matter shall be disposed of. It may go into the general list for a formal trial, which in ordinary times when the courts are pretty full of

business may involve months of delay. On the other hand he may say, "This is a perfectly simple matter; it shall go into the short cause list, and be disposed of perhaps next week or within a fortnight;" or he may send it to the County Court, or he may say, as he does very frequently—and parties are very eager to have him do it if he will—"I will try this myself, if you agree," and he gives the parties then and there a day and an hour when he will sit and hear the case just as a judge would do, in the presence of witnesses and counsel (if the parties like to brief counsel). The master will take it perhaps within a week and try the case himself.

47,555. In how many cases have you known that done, in the last five years?—It is very difficult for me to say how many. I have known it frequently done, and have appeared in such cases myself very frequently. Masters do not do it now, I know, because they are otherwise occupied—I mean since the war commenced they have been dealing with abnormal conditions. Before the war and before this emergency legislation, the masters occupied a great deal of their time in taking references of one kind or another.

47,556. It is not my experience?—Well, it is my experience.

47,557. (Chairman.) Your point is, that in dealing with these matters a master has in the first instance to judge of the value of affidavits submitted, and in the second place to decide how the case shall be tried?—Yes.

47,558. And for this purpose is experience as a barrister more valuable than experience as a solicitor?—Yes, I think so. As a barrister he is accustomed to appear in court; a solicitor is not. He knows the course of trial and the methods of trial and the way things can be presented to the judge and to the jury. He has got all that in his mind and all the knowledge and all the skill based upon that experience.

47,559. We need not go through all the different kinds of proceedings which you mention in your précis, but will you turn to "The preservation or sale of property, the subject matter of an action." You point out that a master has to exercise a discretion in such matters and consult the interests of the persons concerned?—Yes.

47,560. Is that a matter with which a barrister would more often have to deal than a solicitor? I mean, is the experience which would enable a man to deal with questions of that kind acquired by a barrister rather than by a solicitor?—Of course, one must be perfectly frank about it. The solicitor probably knows the business side of the thing better than the barrister does, as to how the property should be disposed of, and what is the best way of disposing of it.

47,561. (Lord Mersey.) And the lay client knows it better than anyone?—Certainly, but the barrister will know the effect of any particular order that is made and how that order may operate, probably, better than the solicitor. It is to be remembered that you may be creating positions by these orders which cannot altogether be set right by the judgment. There are many cases where the judgment cannot bring the parties into the same position as they were in before the order was made.

47,562. As a matter of fact, in the King's Bench Division, the appointments to masterships are exclusively made from the Bar?—Yes.

47,563. It is competent for the persons having the patronage to make the appointments, if they choose, from solicitors?—It is.

47,564. But as a matter of fact we know that for a long time they have been taken exclusively from the Bar?—Yes.

47,565. As far as I know the evidence that has been taken by this Commission, it is admitted that that has worked very well?—It has.

47,566. And that the present staff of masters discharge their duty very well?—Yes.

47,567. So far as you know, no real exception is taken to the propriety of these appointments?—I do not know of any.

47,568. Under those circumstances, is it desirable to make any change?—I should have thought not.

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47,569. It is competent for the Lord Chief Justice or the Master of the Rolls or the Lord Chancellor to appoint a solicitor if he thinks fit?—It is.

47,570. And it has been done at times?—It has. May I say this: at one time, as your lordship knows, taxing was done by the King's Bench masters, and I think any member of the Bar would admit that solicitors would know far more about taxation of costs than any barrister. It was found that that was work which did not go with the ordinary work of the masters. Solicitors were appointed in those days occasionally, and did taxation work, no doubt, very successfully. Then all the taxation was taken away from the King's Bench masters and put into a separate department, and solicitors held those appointments, and since that time the masters of the King's Bench Division have been barristers exclusively and done the work most successfully. In fact, as I have stated in my précis, so far as the present generation of the Bar is concerned, the work has never been done more efficiently than it has been done in the last few years.

47,571. (*Chairman.*) You have no criticisms to make on the manner in which the work is done, or the punctuality and rapidity with which it is done?—None at all. The masters not only do it efficiently, but, what is perhaps of more importance, exercise great tact and courtesy, and every consideration is given to the parties and counsel, so that the work is done with the least possible friction.

47,572. You are not brought into contact with the officers of the department apart from the masters themselves?—No.

47,573. So far as you see the results of the working of the offices of the court, have you any criticisms to make?—No, none at all.

47,574. As regards the position of the masters, do you consider the present salaries to be suitable?—Salary is a very difficult thing to deal with. The present salaries have attracted good men—that is all I can say.

47,575. They have attracted sufficiently good men?—They have attracted sufficiently good men.

47,576. Have you any observations to put before the Commission on the subject of their pensions?—The only thing one can say about it is this: the subject of pensions is not one of which I have any personal knowledge, but I understand they are based, ordinarily speaking, on years of service. Now it is obvious that if a man is appointed, say, at the age of 45 (which is a very good age at which to appoint a man as master), it might be desirable that he should give it up after 20 years, at the age of 65, and then probably he would not get the full pension unless certain years were added. So if you do not add some years, when you were asking a man at the age of 45 whether he would take the position, he would say, "No, I think not," and in that sort of way you might lose a very good man to the public.

47,577. Your inference is that the system of added years for the purpose of pension is a desirable one to retain?—I think so. I think it should be in the discretion of some body—the Treasury or the appointing person—to be able to deal with it from the point of view of the particular man.

47,578. You would make it a matter for consideration in each individual case, and not make some general rule applicable to the whole class?—I think in each individual case, because, as it seems to me, you have to consider it from the point of view of every individual when you are considering whether or not you will appoint him to that particular position.

47,579. At present there is no fixed age for the retirement of masters?—So I understand.

47,580. Do you consider that it would be desirable to have a fixed age for retirement?—I do not know. Men vary a very great deal. One can remember in times gone by, when the masters were very much older than they are now, or at least they appeared to be much older then, because some of us were younger. Some men are unfit at 70, others are most active at 70, and a great many years after 70. It is very difficult to state a general rule upon a matter of that sort. I think, probably, the head officials, like the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls, might be left to deal with the matter.

47,581. Have you known any cases in which men have remained at work after their powers had begun to diminish?—Yes; but, I think, as a rule, it is soon brought home to them, and they then retire.

47,582. On the other hand, it is less invidious to apply a dispensing power if a limit of age is fixed for retirement than to apply pressure where there is no fixed age?—No doubt; but, on the other hand, you may be losing for the public a very good man, and working some hardship on the individual. It is a balance of advantages and disadvantages.

47,583. Have you known any cases in which there has been disadvantage to the public from too great prolongation of a master's services?—I do not know that I have, in recent years, at any rate.

47,584. (*Lord Mersey.*) I suppose the diminution of a man's powers by age is sometimes compensated for by his increased experience?—Certainly.

47,585. I am thinking, at the present moment, of one of the registrars in Bankruptcy?—I know the gentleman you mean. Of course he is a man of considerable age now, and yet he is a man of immense experience. I do not often go into the Bankruptcy Department, but I should think he does his work very efficiently. The man I had in mind was a master in the King's Bench Division—I do not mind mentioning his name—Master Wilberforce, who died a little over a year ago. He was quite an old man.

47,586. (*Chairman.*) What was his age?—I believe he was very nearly 80.

47,587. Was he in office until his death?—Until his death; and he was a most efficient master—a man with an alert mind and very quick, who knew all the work and did it very expeditiously and very well. I think it would have been a great loss to have got rid of a master like Master Wilberforce, say, at the age of 70.

47,588. (*Bishop of Southwark.*) That is to say, I suppose, that a definite system of retirement would prove more costly than is worth while?—I was not considering it so much from the point of view of the amount of the pension and the monetary burden on the public. I was thinking that, if you fix a definite age like 70, or some age of that sort, for compulsory retirement, in many cases it would operate to get rid of efficient and good men.

47,589. (*Chairman.*) Turning now to the question of circuit officers, the Commission has not yet taken any evidence on this point; but, as that is a matter on which the Bar Council wish to offer some observations, we are prepared to hear you. Will you tell us first what the officials on each circuit are?—There is first of all an officer who is usually called the Clerk of Assize; he is sometimes called the Clerk of the Crown. Then there are one or more subordinate officers, viz., the Deputy Clerk of Assize, or Clerk of Arraignment, or Clerk of Indictments. Then there is an Associate. All those gentlemen together form the circuit officers, and they, as a rule, have an office in London, where they receive documents, e.g., depositions and the record in a cause, if the cause is entered at the Circuit Office, on behalf of the circuit judge.

47,590. Does that mainly relate to criminal work?—No. The depositions, of course, relate to the criminal work, and the Clerk of Assize is more concerned with the criminal work than with the civil work; but a cause may be entered at the Circuit Office for trial at a circuit town, and when that is done the papers are received by the gentleman who is called the associate.

47,591. Does the Clerk of Assize draw the indictments in criminal cases?—The Clerk of Assize or the Clerk of Indictments, as the case may be. Probably the Clerk of Indictments is the man who takes that upon himself primarily, but no doubt it is shared in practice between them. Of course, all the bills have to be ready for presentment to the grand jury upon the first day of the assizes. The circuit officers receive the depositions from magistrates' clerks in the counties soon after the cases are committed for trial; and, I suppose, proceed with the preparation of the indictments, so as to have them all in order at the time when the judge arrives at the particular circuit town.

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47,592. What are the duties of the officers at the assizes?—The Clerk of Assize usually sits in the Crown Court, and he arraigns the prisoners and takes their pleas. The Clerk of Indictments probably is sitting in some adjoining room taxing the costs—the amounts to be paid to solicitor and counsel and the various witnesses; and it is upon his order that a charge is made upon the local authority who has to pay the bill. For instance, in a county with a number of county boroughs, the moneys are first of all paid by the treasurer of the administrative county, and then a charge may have to be made upon the county borough by the administrative county; and it is the certificate of the taxing officer which governs the amounts which have to be allowed by a county borough to the administrative county.

47,593. That taxing has to be done immediately and on the spot?—Yes, because of course the witnesses are very often people of the humbler classes; they come to the Assize town without any money, and their expenses have to be paid to them there and then immediately the case is over, so that the taxation must be completed at once. The associate as a rule only attends to the civil business. He acts like the analogous official in London; he sits with the judge in court, swears the juries, and gives the certificate of the result of the trial upon which judgment is entered.

47,594. It is on his certificate that the judgment or order is drawn up?—Yes, in the district registry or in the Central Office, as the case may be, wherever the case may have been proceeding.

47,595. He does not draw up the order himself in any case?—No, but of course the certificate has to be done with great accuracy, or else it is bound to lead to trouble.

47,596. Is the work of the circuit officers continuous all the year round, or is it concentrated at certain periods of the year?—The circuits vary to some extent. The Northern Circuit (of which I am not a member), which is the largest circuit, has four circuits a year, and so they have on the North-Eastern Circuit; but an ordinary circuit has three circuits a year—the winter and summer assizes, at which they take both civil and criminal business, and the autumn assizes, at which they as a rule (with the exception of certain large towns) take criminal work alone. Roughly speaking, on the Oxford Circuit, each assize lasts about six weeks, and that would represent eighteen weeks in a year for the three assizes.

47,597. (*Lord Mersey.*) But the third criminal assize does not take six weeks?—Probably not quite six weeks. Taking one with the other it may be a little less than eighteen weeks in the total. I have never added it up, but it is somewhere about sixteen to eighteen weeks a year. In the meantime between the circuits somebody has to be in attendance at the office to receive depositions and communications from magistrates' clerks, the entries of causes and any communications from solicitors upon the matters, and also of course to draw the indictments which have to be ready for presentment to the grand jury.

47,598. (*Chairman.*) Does that work occupy much of the time of a clerk of assize between the assizes?—Except for a week or two immediately before the circuit begins I should think probably not, but I really do not know.

47,599. (*Lord Mersey.*) And there are three officials to do it?—Yes.

47,600. (*Chairman.*) How are the clerks of assize appointed?—They are appointed by the senior judge going the winter and summer circuit respectively.

47,601. Is there a statutory qualification?—Yes. No one can be appointed unless he has during a period of not less than three years been either a barrister in actual practice, a special pleader or conveyancer in actual practice, or a solicitor in actual practice. Of course, some of the old officials, who were appointed before the Act of 1869, were neither barristers nor solicitors.

47,602. As a matter of fact, have recent appointments been made from among barristers or solicitors?—There was a recent appointment on the Oxford

Circuit of a member of the Bar. There was an appointment on the Midland Circuit, recently, of one who was not a member of the Bar or a solicitor, but he was appointed not by the judge, but by the then clerk of assize, who had the power of appointing subordinate officers.

47,603. That was one of the subordinate officers?—Yes.

47,604. Are the clerks of assize, themselves, all barristers?—Yes, I think, as a rule, they are now. Up till the time of the recent appointment on the Oxford Circuit, the clerk of assize on that circuit was a solicitor; and the clerk of assize on the Oxford Circuit had been a solicitor for very many years.

47,605. Do you consider that that system of appointment is satisfactory?—Yes, I see no reason to change it. The work is done efficiently.

47,606. Have you had considerable circuit experience?—Yes, I have gone the Oxford Circuit regularly, and also attended the Birmingham Assizes, where the Oxford Circuit meets the Midland Circuit, and where the Midland Circuit officers take the business.

47,607. So you have had the opportunity of judging how the work is done?—Yes, on those two circuits.

47,608. And your opinion is that it is done satisfactorily and efficiently?—Quite. One has to remember this about the circuit work: The work is, no doubt, intermittent. As I have already pointed out, the really active work is during some 16 to 18 weeks in the year, but the salaries of the officers are not large by any manner of means. I think a clerk of assize, who is the head official, gets only some 800*l.* a year.

47,609. With the exception of the Northern Circuit, where he gets 1,000*l.* a year?—Perhaps so, on the Northern Circuit, but, I think, on the majority of circuits it is 800*l.* a year.

47,610. You have no suggestions or criticisms to make on the present position as regards the method of appointment or the way the work is done?—None at all, the work is done well, and I see no reason for changing it.

47,611. (*Mr. Coward.*) I only desire to say that I am afraid I take a very different view to yourself as to the work that is done by the solicitors in the preparation of cases for trial. From what you say I should assume your view to be that counsel does everything?—No, indeed. I do not think anything of the sort.

47,612. Then I misunderstood you. I do not want to say any more if that is the case. From the time an action is started the preparation of the pleadings is always done by counsel?—Certainly.

47,613. But apart from that, and possibly advice on evidence, the whole of the case, in my experience, is conducted by the solicitor upon his own responsibility and in the way he thinks is most conducive to his client's interests?—I am quite aware of that.

(*Mr. Coward.*) He never would go near counsel for the purpose of endorsing the writs or anything else. However, I quite agree with what Lord Mersey said, that it is in the power of those who have these appointments to appoint solicitors as masters, and consequently I do not think it necessary that we should go into this question. I did not like the notes to have no qualification upon them with regard to this point, hence I have said what I did. Otherwise I have nothing more to put to you.

47,614. (*Mr. Graham Wallas.*) I understand you to say that in your judgment the existing system of appointing masters in the Central Office works admirably?—Yes.

47,615. And it does so largely because the judges, who appoint, have opportunities of knowing who are the best possible candidates?—I should think that has a great deal to do with it. In point of fact, they have appointed very good men.

47,616. Have you a list before you of the names of the existing masters and assistant masters?—No; but I know them perfectly well without a list. There are only six King's Bench masters.

47,617. I think you will find there are nine altogether—seven masters and two assistant masters?—Yes, there are the masters in the Crown Office. I was

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distinguishing them, and my evidence has related mainly to the King's Bench.

47,618. You mean Sir John Macdonell of the Crown Office?—No, he is senior master of the King's Bench Division.

47,619. If you look at the names in that list, I think you will find that there are seven masters and two assistant masters?—Yes.

47,620. Looking down those names, is it not the case that four of them are sons of judges?—As to the second name on the list, I believe his father was a judge, who died years before he became a master. As to the fourth one, I believe his father had died before he became a master; and as to the last one, his father had retired before he became a master.

47,621. But four are, in fact, sons of judges?—No doubt, but I do not know what inference is to be drawn from that.

47,622. I am not at present drawing any inference: but they are, in fact, sons of judges?—Their fathers were judges, yes.

47,623. The distinction is valuable. There are three others whose relatives are judges?—I do not know.

47,624. If that is the case, do you believe that it is a pure coincidence that the best man happened to be a son or a relation of a judge?—(Lord Mersey.) Heredity I suppose has nothing to do with it?—I leave out of account altogether the question of heredity, but I do not know in any of the cases that you have mentioned

that there is the slightest foundation for any suggestion that any improper appointment was made in those cases.

47,625. (Mr. Graham Wallas.) Have you before you the names of the clerks of assize?—No.

47,626. I will hand you the list (*handing a list to the witness*). There are eight names on that list. Are five of those names apparently the sons of judges?—I recognise five names as having been borne by judges, and some I know are the sons of judges.

47,627. Are there any other names you recognise as belonging to legal families, or related to legal families in that sense?—The first name is certainly a legal name. The second name, I should think, was not a legal name. The third name is certainly a legal name, and I believe he is the son of a judge. The fourth name I do not know. The fifth name is certainly a legal name, and I believe the son of a judge, and so is the sixth name on the list.

47,628. (Lord Mersey.) But I will put it much more plainly. Is it not the fact that there has been—I do not say improperly at all—a tendency for judges going circuit to appoint their sons, if they happen to have barrister sons, to the position of clerk of assize?—I really cannot answer that question.

47,629. Cannot you? I think if you tried you could answer it?—I know in one case on the Oxford Circuit a judge did appoint his son to the position.

47,630. I see no harm in it myself?—I was going to say that I do not know that it is any disqualification that a man is the son of a judge.

Mr. JAMES AUSTEN-CARTMELL, called and examined.

47,631. (Chairman.) You are a barrister?—Yes, I am a member of the Junior Bar. I was called to the Bar in 1889, and I have practised ever since at the Chancery Bar. I was appointed in 1908 to be junior counsel to the Inland Revenue on the equity side and to one or two similar posts. In 1913 when Mr. Justice Sargant was raised to the Bench I was appointed to succeed him as junior counsel in equity to the Treasury and Board of Trade, and I hold those appointments now.

47,632. The evidence you are prepared to give relates chiefly to the Chancery masters and registrars, and also to the taxing masters?—Yes; but as to the taxing masters in so far only as they deal with Chancery work.

47,633. The Commission has already had very full evidence from the senior master as regards the nature of the work of the Chancery masters, so we need not trouble you to repeat what the Commission has already before them as regards the nature of that work. Your experience at the Bar has included frequent appearances before the masters?—Yes, I have continually been before them. I do not mean to say that in the last year or two I have been before them quite so often, as counsel for the Crown does not appear before the masters in Crown cases; but in other cases I appear before them, and I may say that I have appeared before them in my time as much as any junior at the Bar.

47,634. Your contact is entirely with them, and not with any of their subordinate officers?—I may say that the reference in my précis to the junior counsel of over 20 years' standing is to myself. I have only once appeared before a master's subordinate—a chief clerk—and that was by consent on a very small application in a rather important case. The master was ill, and the senior clerk was taking his work *pro tem.*—that is all.

47,635. What do you think is the necessary experience and qualification for appointment as a Chancery master?—I think the most fully qualified man is a solicitor who has been in substantial practice as a principal, or at any rate as a managing clerk with a firm of very high standing indeed. The best man is a man from 35 to 45 years of age who has had a considerable number of years' responsible experience as a principal.

47,636. That, you think, is the training and experience which is most suitable for the work to be done?—I think so—the two sides: the legal training which is

quite adequate in every way, and the business experience, which is even more important.

47,637. The Chancery master has a considerable amount of administrative work?—Yes, a great deal.

47,638. He has to exercise business discretion of the kind that a solicitor is in the habit of exercising?—Yes.

47,639. So you would not be in favour of considering the subordinate officers of masters eligible for promotion to the post of masters?—No, I think masters should be appointed straight from the ranks of practising solicitors.

47,640. The appointment at present rests with the Lord Chancellor?—Yes.

47,641. Would you suggest any alteration in that?—No, I would not like to suggest any alteration in that.

47,642. Has the Lord Chancellor full opportunities for judging of the merits of the candidates?—So far as I am aware, yes. I have frequently, myself, when friends of mine or clients of mine have been candidates for the office of master, written testimonials and so forth; and I know from personal knowledge that the Lord Chancellor's secretary makes a point of inquiring into the antecedents and capabilities of all the gentlemen who offer themselves for the appointments.

47,643. In your experience, is the work satisfactorily done?—Admirably.

47,644. And without arrears?—Yes.

47,645. Does the organisation of the work appear to you to be satisfactory?—Quite.

47,646. You have no suggestions to make as to any alterations in organisation?—No, I have no suggestions. I may say that at present the time of the masters and of the clerks may not be fully occupied; but that is due to circumstances over which none of us here have any control. The existing state of business is such that there is, if I may say so, a certain slump in legal work.

47,647. Apart from the circumstances of the moment, there has been, say, in the last 25 years, a considerable reduction in the amount of Chancery business?—Yes. There is a tendency for the old long administration actions not to be carried on in the way they used to be. But it is really impossible to say with certainty whether in one year there will not be a great deal more work than there was in the previous year. I think the tendency has been for it to drop. It is possible, though I do not venture to speak with any authority, that some reduction in the number, perhaps,

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even of the masters themselves, and possibly of the staff, might be advantageously carried out. For instance, there are four masters now to every linked pair of Chancery judges. Again, I do not wish to speak with any authority, but it is a matter for consideration whether three could not do the whole of the work.

47,648. Are you satisfied with the arrangements that are made for doing work arising in the vacation?—So far as I know, yes. I have not practised in the vacation myself for some years; but I always find, when I get back, that the work which remained to be done at the end of the previous sittings has been got through, and I have never heard any complaint from counsel or others who have stayed up during the vacation that the work in masters' chambers was not properly attended to.

47,649. At present there is no fixed age for the retirement of masters?—No, there is no fixed time for retirement.

47,650. The suggestion has been made in evidence that it would be desirable to have a fixed age, and I think some previous Committees and Commissions have suggested the age of 70. What is your view as to that suggestion?—I think it depends, if I may say so, upon the man. There have been masters, certainly, of 70 who have been absolutely well qualified to do the work. Experience counts for a very great deal in the efficiency of a master. On the other hand, when a man gets towards the age of 70, he naturally has not got the same physical powers as he had at an earlier age. I should, myself, have thought that a man's best work as master would be between 45 and 60 to 70; that is my view.

47,651. At any rate, you see no objection to fixing an age limit for retirement?—No, provided that it were fixed at a sufficiently late age to enable a man to earn a sufficient pension. Supposing a man is not appointed until he is 40 to 45, he must have a sufficient period of possible office during which he may earn an adequate pension; otherwise you would not get the best men to take the post.

47,652. (*Lord Mersey.*) But you would not have an incompetent man kept on for the mere purpose of earning a pension?—Certainly not. That case is always provided for. It is always in the power of the Lord Chancellor to compulsorily retire an incompetent man. What I mean is this: It has been put to me that 70 would be the right age, and I accept that, if I may say so, because I think the bulk of the masters are appointed from the age of 35 to 40 or 45, and that age would give them practically sufficient length of service to earn the full pension.

47,653. (*Chairman.*) Your suggestion in fact is this, that if a fixed age for retirement is laid down it becomes more important to arrange the pension system so as to secure an adequate pension to a man retiring at that age?—Yes, that is the point.

47,654. That has in the past been, to some extent, arranged by means of a system of added years at the time of appointment?—Yes.

47,655. Would you be in favour of the application of that system to appointments to masterships?—Yes, I think so. So that if a man is retired at 70, or whatever is the age chosen, it should be clear that he would receive a pension which it would be worth while for him to accept.

47,656. Do you think that any devolution of work at present performed by the masters themselves is possible?—I doubt it. I do not think that any devolution which is merely designed to save the masters from doing the formal work could be substituted. There is a great deal of preliminary work that the principal clerks in fact do for the masters, but the responsible work must be done by the master himself.

47,657. The first class clerks do hear some simple kinds of motions in Chancery chambers?—Yes, I think so. They hear solicitors upon applications for particulars.

47,658. And applications for time, and things of that sort?—Yes.

47,659. Do you think that any extension of that system is desirable?—I think that is really more a matter for the masters themselves. I think the principal clerks can deal with formal applications quite well; but where there is a case which involves any

judicial experience, it is desirable that the master should deal with it. As you are aware, masters' orders are judges' orders.

47,660. Do the Chancery masters attend in court at all?—They do not attend in court. They attend in chambers. The judge takes chamber summonses on Mondays, and the master in whose compartment the case is sits with the judge, either next him or just below him. Some judges sit on the bench, and the master sits where the registrar sits when the Court is sitting. Otherwise the judge sits below the bench and the master sits beside him. If, as sometimes happens, a question arises to which a reference to the master is needed, while a case is being heard in court, the judge sends for the master and speaks to him, but, except for that, the masters do not attend in court at all.

47,661. Do you think their attendance in court ought to be extended at all?—I doubt it. I do not think it is really requisite. They might with advantage be present on some summonses, but I should not press for it, and I think they have really quite enough to do in chambers. It is more a matter of procedure than anything else. The case is so rare in which the master would be wanted to sit in court, that I should not think it was really worth while to make any alteration in the practice. I only thought it desirable to call attention to the fact that there might be a few cases.

47,662. As regards the staff of the office, do you think the present system produces the right type of officers?—That is my view.

47,663. Do you consider that any previous legal experience is desirable in appointments to the subordinate staff?—I think it is an advantage. The best men for the clerkships in the Law Courts are, to my mind, men who have been clerks in solicitors' offices.

47,664. Do you think that a system of competition would be an improvement on the present method?—No, I do not think anything would be gained by it. I do not think it would ensure your getting a better man. One man might get more marks than another who would not be so qualified to do the work.

47,665. Does the present system ensure your getting the best men?—I think so; because the men who apply for these posts have their testimonials, and so forth, and the appointments are in the hands of the Lord Chancellor or in the hands of the Master of the Rolls or the Lord Chief Justice, and I think whoever appoints takes sufficient care to see that the applicants are qualified.

47,666. Do you find in practice that testimonials are a satisfactory way of ascertaining a man's qualifications?—Personally, if I give a man a testimonial, I try to satisfy myself that he is qualified for the post for which he is applying. It is difficult to say, as a general proposition, whether testimonials are satisfactory. My point rather is, that I do not think a competitive examination would be any true criterion.

47,667. One suggestion which has been made is that the clerks might be selected by a competitive examination among persons who have had a certain experience in a solicitor's office, say, five years?—I should see no objection to that at all.

47,668. Would that be less open to objection in your view than an open competition?—It would be certainly open to much less objection than open competition.

47,669. I think you have already told us that you are not in favour of making the clerks in the office eligible for promotion to masterships?—No.

47,670. Have you any observations to offer as regards the organisation of the office of the masters?—No, I do not think I am competent to do that. I can only judge by results, and, as far as I am aware, the machine seems to work quite well.

47,671. Turning now to the Chancery registrars, has your experience brought you much in contact with the registrars?—Continually. I do not want to speak too much of my experience, but I think I have, as counsel, drawn as many minutes of orders as anybody, and in that way I am continually coming across the registrar.

47,672. That is in cases where the judge directs that minutes should be signed by counsel?—Yes.

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47,673. In those cases do the minutes practically amount to the order itself?—Yes, if they are properly drawn.

47,674. If they are properly drawn, the order is based upon them with very little modification?—Yes; it is for the registrars to see that the minutes are in accordance with what is right. The reason why minutes are directed to be signed by counsel is that they may depart to a certain extent from stereotyped forms, and they have to be adapted to the circumstances of the particular case. In such a case the registrar is not always in a position to take a full note of all the details of the case which have to be mastered, in order that the minutes may be properly drawn, and the judge directs counsel to sign the minutes. Then the minutes go to the registrar, and he has to see that, when they are drawn, an order in accordance with them would be a right and proper order from the point of view of procedure and practice. If he finds that something has been put in that ought not to be put in, he communicates with the counsel who draw the minutes.

47,675. And do counsel then meet the registrar?—No, you hardly ever meet. You usually write a note, or you can go and talk with the registrar privately in court or in his office. I do not think I have ever personally been before the registrar.

47,676. There is no formal appointment to settle the minutes in such cases?—No formal appointment at which I, as counsel, should attend. If any question does arise, I either write to the registrar or speak to him personally.

47,677. In your experience, is the registrars' work well done?—Yes, I think the registrars do their work extremely well, and they are a great safeguard of the practice and the procedure of the court.

47,678. The system of appointment of registrars differs, I think, from that of the masters, in that they are always appointed from among the principal clerks?—Yes.

47,679. In fact, up till now, there has been a statutory right of succession of the principal clerks?—Yes.

47,680. Does that seem to you to be a satisfactory system?—Taking it altogether, it does. It may be desirable possibly that there should be some economies effected, but that is hardly a subject for me to deal with. On the question of principle, it seems to me that the present system is quite satisfactory, and I doubt if it could be altered with any certainty of better results.

47,681. You have said that, in the case of the masters, you think it desirable to maintain the present absolute bar between the clerkships and the master-ships?—Yes.

47,682. In the case of the registrars you think it desirable to maintain not merely the possibility of promotion but the obligation of promotion. What is the exact difference between the work of the two offices which makes an exactly opposite system desirable in the two cases?—The registrar who is moved up from the man who has been going up the ladder reaches the post to which the whole of his training has been directed. I may start by saying that, to my mind, it would be a great pity if registrars were appointed otherwise than from what may be called the "College of Registrars," that is to say, the body of registrars in embryo. It would be a mistake, in my mind, to appoint a registrar direct from the Bar; it would also be a mistake to appoint him direct from the class of solicitors in practice. He must have the special training which can only be had in the office. I think, as a general rule, promotion by seniority works well, and certainly avoids friction, discontent, and so forth. A man goes into the office, learns his work as he goes along, and steps in in fulness of time into the post for which he has been trained.

47,683. Why do those considerations not apply to the masters?—Because the functions of the master *qua* his subordinates are really different. The master is in a limited sense a judge, he is brought in to deal with matters of administration and so forth, and is in his own chambers the man in command. The training that the clerkships give does not culminate in the master-ship. The whole training and work of what I call the "College of Registrars" culminate in the registrarship.

47,684. But is there any such complete difference. Take the case of an inquiry ordered by the Court. The inquiry is, to a great extent, conducted by the clerk in the master's office?—He has the evidence.

47,685. The ultimate approval of the certificate that is drawn no doubt depends upon the master, but the certificate is drawn by a first class clerk?—He does the drafting.

47,686. Is not the relation of principal clerk to the master in that case very similar to the relation of principal clerk to the registrar in the case of a complicated order?—I do not think so, because a certificate is certainly a very different matter from an order. An order is a very difficult and technical thing. A certificate merely answers the inquiries or gives the results of accounts that the judge directs.

47,687. An inquiry, say, in a pedigree case may be a complicated, difficult, and technical matter?—Yes. No doubt in the first instance the evidence is looked into and analysed by a master's clerk, but then the master in the end has to find the result himself.

47,688. The registrar has finally to settle the order?—That is perfectly true, but the man who has got to draft the order must know how to draft it to start with, otherwise it is useless.

47,689. Is the point this, that the work of drawing orders is so much more technical and difficult that a training in that particular work is necessary before a man is competent to succeed to the office of registrar?—That is my view, and that was the view I intended to bring out in my memorandum, and am endeavouring to bring out now—that you do want undoubtedly a special training in a special place for the office of registrar.

47,690. The work of the master is less technical than the work of the registrar?—Yes, less technical. The master must be a lawyer and a man of experience. The registrar ought to be a lawyer with a special kind of highly technical training.

47,691. The registrar has none of the business discretion that a master has to exercise?—No.

47,692. Would your observations about the age for retirement apply similarly to registrars?—Yes.

47,693. And as regards pension also?—Yes. May I say one thing about the primary qualification of gentlemen who enter the Registrars office. A question has been put to me whether the appointment was suitable for barristers, and I think I have already said that in my opinion it would be undesirable to appoint gentlemen straight from the Bar, or indeed straight from the solicitor's profession, to be registrars; but the men who are put on the ladder for registrarships ought, I think, to have some legal training, or some legal qualification before they enter the office. It is difficult to say really whether the best qualification is afforded by the Bar examination or by the solicitor's examination. I think both afford a good qualification, and a man who is able to pass either the Bar examination or the solicitor's examination has had that legal reading which makes him fit ground for the special training which is given in the Registrars Office. Which of the two examinations is the better it is rather difficult for me to say, but if I may say so in the presence of Mr. Coward, I am inclined to think that the solicitor's examination is the better, because it is wider and really a more difficult examination than the examination for the Bar.

47,694. (*Mr. Coward.*) And he has had a more practical training?—A man who passes his solicitor's examination and has been in a solicitor's office has actually seen orders in draft continually.

47,695. (*Chairman.*) Turning now to the taxing masters, a taxing master may be either a barrister or a solicitor?—Yes.

47,696. In practice they are all solicitors, except one, I think?—Yes.

47,697. What is your opinion on the point as to whether it is desirable that they should be barristers or solicitors?—I feel absolutely no doubt that they ought to be solicitors.

47,698. The solicitor's experience having better qualified him to deal with the question of costs?—Infinitely better. I do not think there is any comparison between the two.

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47,699. As regards the staff of the Taxing Office, do your observations in regard to the staff of the Chancery masters apply equally there?—Yes.

47,700. You would not be in favour of making the staff in that office eligible for promotion to masterships?—No.

47,701. Have you in your practice at the Bar had contact with taxing masters?—Yes, I have been before them on several occasions.

47,702. I suppose in all ordinary cases the taxation is attended by the solicitors themselves?—Yes, the solicitors or their clerks appear.

47,703. Would a barrister appear in specially difficult or contested cases?—Yes. I do not think they appear quite so often, proportionately, before the taxing masters as they appear before the Chancery masters, but they do appear. I was thinking of my own experience. Where I have appeared once before a taxing master I have appeared four or five times before a master in Chancery, but that may be only my own personal experience. I have no doubt that on most days in the week counsel appear before one or other of the taxing masters.

47,704. As regards the age for retirement and pension, would the observations you have already made apply in the case of taxing masters?—Yes.

47,705. There is one question on which the Commission has had some evidence and on which I should like to ask your opinion, and that is whether it is desirable to keep the Chancery Masters Office and the Chancery Registrars Office entirely distinct and separate as they are at present, or whether it is desirable to bring about an amalgamation of those two offices? You may be aware that various commissions and committees have considered these offices in the past, and some have recommended such an amalgamation but others have not recommended it?—Yes.

47,706. Do you consider that it would be desirable to amalgamate those two offices?—No, I am quite against amalgamation. I think the departments ought to be kept separate, if only for physical reasons. The whole of the accommodation of the Law Courts is based upon the footing that they should be separate. But apart altogether from that, I think as a matter of procedure they ought to be kept distinct. I may say that I have seen the report of the Committee over which Mr. Justice Kekewich presided, and I agree upon that point with what Mr. Justice Kekewich and Mr. Christopher James said, but I am not in favour of allocating registrars to particular judges for a limited time; I should keep the system as it is.

47,707. You are aware that the minority of that Committee recommended both the allocation of registrars to particular groups of judges, and also, ultimately, the amalgamation of the offices of masters and registrars?—Yes.

47,708. But you are in favour of the majority report and for keeping them separate?—I should be in favour of keeping them separate, and I should be against allocating registrars to particular judges. As I understand, the majority reported in favour of keeping the departments separate, but of allocating particular registrars to particular groups of judges. I should agree with the first, but disagree with the second recommendation.

47,709. In fact, you would keep it exactly as it is?—I would keep it exactly as it is, subject to effecting such economies as may be desirable in view of the work that is actually done.

47,710. Is that on the ground of the extremely technical character of the registrar's work?—Yes, I do not think you could get a master—in fact, I do not think a master is a right and proper person—to draw up orders or to be responsible for really difficult and complicated orders. He has not had the special training for it, and he has other things to do.

47,711. In fact, you think it is so technical that it is enough to occupy one man's whole mind?—I think so.

47,712. A man who has to give his mind to other things would not be capable of mastering its technicalities?—I would not say he would not be capable of doing it; but I do not think, as a practical matter,

you could fairly ask a man, who had a sufficient number of orders to deal with, to deal with anything else.

47,713. You have also some experience of the Lunacy Department?—Yes.

47,714. That is a department on which the Commission has not yet taken evidence, and therefore, we are not prepared to go into it in great detail; but are there any general observations which you would wish to put before the Commission as regards the Lunacy Department?—So far as my experience goes, the work is done there very satisfactorily. No doubt it has been felt, and views have been expressed, that it would be or might be desirable to amalgamate the Lunacy work with the Chancery work; that is to say, practically to put an end to the Lunacy Office and bring it over to the Chancery Division. But that really goes to a very far-reaching reform, and I should prefer not to express any definite opinion about it, unless you really desire it.

47,715. That involves, of course, questions of purely judicial procedure which the Commission has considered to be outside its terms of reference?—Yes, it is a very special office with a very special staff.

47,716. In your experience, is the work there done in a satisfactory manner?—Quite well.

47,717. And expeditiously and efficiently?—Yes.

47,718. (*Mr. Graham Wallas.*) In speaking of the Chancery Registrars Office, you say, in the note you have given us of your evidence: "A system of promotion on any other footing than that of seniority would tend to dislocate the office, to cause discontent, and engender a general feeling of uncertainty and insecurity in the minds of the men who are on the 'ladder.'" Would you apply that wide statement to Government offices generally?—I am not sure that I am quite prepared to answer that question. Perhaps I may put it in this way, that except in exceptional cases promotion by seniority works satisfactorily.

47,719. Would you apply that to a service like the railway service?—I have had very little experience of railway service. I should not like to have the man who was in charge of my train to be an imbecile and to have been promoted there merely because he was a senior man. I quite appreciate what you are putting to me—that merit should be rewarded, and so on.

47,720. May I take it that, speaking broadly, you, appearing on behalf of the Bar Council, have no important change to suggest in the existing scheme of organisation of the legal departments, or the methods of appointments?—Yes, that is quite true.

47,721. Would you agree that since, say, 1850, important changes have taken place in the legal departments?—That is so. No doubt certain abuses have been done away with, and economies have been effected. If I may say so, I am not suggesting that economies might not be effected even to-day, but I do not think there are any abuses to-day which require rectification. I think that the organisation works well, and that you certainly could not predicate that any change in the organisation would lead to better results.

47,722. As a matter of historical fact, since Dickens wrote "Bleak House," important and large changes have taken place?—In the days of "Bleak House" the procedure itself was a matter rather of oppression to the people.

47,723. Would you agree, again, as a matter of historical fact, that the driving force which brought those changes about was rather lay opinion than professional opinion?—I am afraid I do not remember.

47,724. (*Mr. Coward.*) Do you mind my recalling your recollection to a point. I do not know whether you have heard this before. "There is not a single man now who is familiar with the business of the Chancery Division who would not regret deeply any change which destroyed or impaired the working of that which has, I think I may say, transformed the Chancery Division from a by-word into a branch of judicature in which there is least delay and in which there are practically no complaints." That had reference to the grouping of the judges?—Yes.

47,725. I suppose you would agree that it has transformed the Chancery Division from a by-word to a branch of our judicature in which there is least delay

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and in which there are practically no complaints?—Yes. You mean the system of linked judges.

47,726. Yes?—That has worked admirably.

47,727. The only suggestion I desire to make to you is this: Do you think there is a possibility in any way of making some other reform which would have an equally beneficial effect in other respects? I cannot tell you what it is, but is there not some means of getting at some reform which will act beneficially with regard to the other branches of procedure in the courts?—The introduction of the system of linked judges was intended to remedy the delay, and it has done so. There are no delays now, so there is no abuse from that point of view to be remedied. If it is suggested that there might be economies I am inclined to agree. I think economies might be effected, but I do not think you would effect those economies by any change of the organisation, but by considering whether there were not in certain departments too many people employed to do the work.

47,728. That is what I wanted to get at?—I think I said in answer to the question put to me that I am not by any means prepared to say that there might not be fewer masters.

47,729. May I make one suggestion. At present the registrars all sit in court?—Yes, but not always.

47,730. That is to say, unless they are represented by their clerks?—That is it.

47,731. But they are always there if they can be?—No, they do not like being there in witness actions. In an ordinary witness action the clerk can do perfectly well. He does very little more than what an associate does—swears witnesses, marks exhibits, and so forth; but it is very essential that the registrar should be in court on petition days, because the work on petitions is most important, as of course you know. Enormous sums are paid out of court on petitions, and it is absolutely essential that the order on a petition should be correct, and that the evidence on the petition should be properly checked and so forth.

47,732. That linking of the judges I think the Master of the Rolls said was his suggestion?—The present Master of the Rolls, yes.

47,733. It is rather a curious thing, but he said that up to that time nobody had thought of it, and it came upon him as an inspiration. It was adopted, and it has worked in this extraordinary way, as he said in his evidence, which I have just read. It has occurred to me whether there might not be some similar sort of rearrangement which would work to the advantage of everybody connected with the courts?—There might be. I have thought it over, but I cannot think of one. I should rather like to deal with a point which you were putting, and that is this: If you will remember, the difficulty or the trouble that was got over by the link-

ing of the judges was originally due to the fact that there had been appointed first one and then two of what we used to call "journeyman" judges. Up to the appointment of the first journeyman judge, the system was very much the same as it is now. Every judge had his own set of chambers. There were four judges with two sets of chambers. Then they found that the four judges could not cope with all the work, and the office of the fifth judge was created. He was, you will remember, what we used to call a "journeyman," and cases used to be transferred over to him backwards and forwards. It was the existence of the "journeyman" judge and the system in which the cases were dealt with, he being a sort of amphibious judge who was not one thing or the other, and who had no set of chambers under him, that led to great delay; and matters were made still worse when they appointed a sixth judge.

47,734. There were other reasons, too, I think?—Yes. Then it occurred to the Master of the Rolls that it would be a most happy idea if you linked the judges together in pairs, so that one would do the witness work and the other the non-witness work, and do it continuously. That has worked admirably. But I think the trouble was caused by the fact that two extra judges had been appointed, and the machine as a whole was not modified so as to meet the requirements of the case.

47,735. I think there are 450 clerks and people in the Central and other offices—the Chancery offices, and so on. That is a large number?—It is indeed.

47,736. Things want really to be done upon a business plan to keep that machine going properly?—Yes.

47,737. It ought to be managed in the same way that I should hope some of our offices were managed where the things are, I think, well done?—Yes.

47,738. (*Sir John Kempe*.) Turning to the clerks for a moment, in your précis of evidence you say: "It is at least doubtful whether the supply of suitable candidates (which appears under the present system to be quite adequate) would be increased," and before that you say, "some legal qualifications are no doubt required; but these are qualifications of the practical rather than the theoretical side." Can you tell me what you mean by "suitable candidates"?—I think a suitable man is a man who has had practical experience as a clerk in a solicitor's office in fact.

47,739. As a matter of fact, are the appointments pretty nearly confined to clerks who have been in solicitors' offices?—So far as I am aware, in the Masters Chambers certainly, and in the Taxing Masters Office.

47,740. And they suit?—They do, admirably.

47,741. You ensure legal qualifications there?—Yes.

47,742. That qualification is required in the Chancery Office, but not necessarily required in all the offices. For instance, it is not required in the Probate Office?—I cannot speak at all with regard to the Probate Office.

ONE HUNDRED AND EIGHTEENTH DAY.

Thursday, 4th March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.

Mr. RICHARD DURNING HOLT, M.P.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. PHILIP SNOWDEN, M.P.

Mr. GRAHAM WALLAS.

Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Master JOHN CHARLES FOX, called and examined.

47,743. (*Chairman*.) You are a master of the Supreme Court in the Chancery Division?—Yes.

47,744. How long have you held that office?—23 years.

47,745. Before that you were in practice as a solicitor?—Yes, for 11 years before that, and before that I was a managing Chancery clerk.

47,746. Will you give the Commission your views

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as to the qualifications necessary for Chancery masters?—Master Romer, of course, has given his evidence, and I am authorised to say that the rest of my colleagues approve of my written statement, which I have already sent to the Commission, and I think I may say also that in substance my statement agrees with Master Romer's evidence.

47,747. With regard to the evidence that you give to-day, if any matters arise outside the précis that you have submitted, will your evidence on those points be your personal views or those of your colleagues?—They will be my personal views. I will say, if I can, when my colleagues agree. At present they have only seen my statement in which I say: A solicitor is the person best qualified for the post of master in the Chancery Division, because he is familiar with the details of administrative work and practice. Difficult questions of law are in most cases referred to the judge. But no solicitor should be appointed who has not had experience of Chancery practice. The qualification of 10 years' practice as a solicitor should be retained. It is just the training required for the work of a Chancery master. I believe that London solicitors have always been appointed, because few country solicitors are acquainted with the details of Chancery practice; other posts are open to them.

47,748. Are you of opinion that that is the only kind of experience which qualifies for the work of a master?—I think so; it best qualifies.

47,749. Would you say that in no case should a clerk in the Chancery chambers be promoted to a mastership?—I think he should not, unless he happens to have had 10 years' practice as a solicitor, which is of course not a very likely thing. That is certainly my view.

47,750. That is not a very likely thing, and in any case it would probably have been 30 years back, before he entered the office?—Yes.

47,751. If a man had been 30 years a clerk in the office, would it make very much difference to his qualities whether he had had before that 10 years' experience as a solicitor or not?—I think it would help him.

47,752. You would, therefore, maintain the present bar unless a clerk had had the 10 years' experience before entering the office?—Yes.

47,753. Then, as regards clerkships, do you consider that clerks should be appointed direct to this office and not transferred from other offices?—Yes, I feel that very strongly.

47,754. Are you of opinion that the present system of promotion from the bottom should continue, or that the mechanical work should be assigned to a separate class of clerks?—I think the mechanical work—that is, the present work of the third class clerks—should be assigned to a separate class, and that there should be no promotion in the ordinary course from the third class.

47,755. You would recruit normally the first and second classes direct, and only in very exceptional cases by promotion from the third class?—Yes, but I think I would limit it to the second class; otherwise it would be hardly fair. If you recruited the first class from the outside, you would be stopping promotion in the second class. My idea would be to have solicitors' clerks, whether admitted or not, appointed to the second class, and then they would go up by seniority and on a certificate of fitness to the first class.

47,756. So that the third class would be entirely apart, and would be recruited with no expectation, except in very exceptional circumstances, of going beyond the maximum salary of 200*l.* a year?—Yes.

47,757. Under those conditions, do you think you could get sufficiently good men for the work of the third class?—I think so, quite, from my recollection of the work in a solicitor's office.

47,758. Would you get men who would be content to remain for the greater part of their service at a salary of 200*l.* a year?—I think so.

47,759. You think you would not get discontent?—I think not at all, if the men knew that that was so when they were coming in. As I think I make clear in my statement, this should not apply to existing holders.

I do not think it would be fair to the existing third class clerks to deprive them of the chance of going up.

47,760. No; but you propose it for future appointments?—Yes.

47,761. Would you explain a little more fully your reasons for suggesting that system?—My principal object in suggesting it is to get in solicitors' clerks, because I think they are best fitted to do the work of the second and first class clerks. The men who come before us and who do the work are, some of them, most useful and excellent men, who really know their work thoroughly. Those are the men I should like to see doing the work altogether. Of course, they may be admitted men. There is nothing to prevent an admitted man applying for a second class clerkship with the chance of getting up to the first class and there stopping; but my principal object would be to get the men who are best qualified, that is, I think, the solicitors' managing clerks.

47,762. At what age would you suggest that they should be appointed?—I have rather suggested that a man might qualify himself at 25. He might really qualify at 20 if he went into a solicitor's office at 15, but probably he should not be appointed before 25; you want a man of that age, I think.

47,763. You suggest that five years' experience as Chancery clerk in a solicitor's office is the necessary experience?—I think so.

47,764. A boy entering at 15 might not at once become a Chancery clerk?—He might be put on to Chancery work at once, but it would be rather elementary.

47,765. Would he not be, as we heard yesterday, a "bag carrier"?—Not at 15, I think. I think the small boys who go into solicitors' offices, perhaps at the age of 12 or so, are the ones who do that kind of work. (*Mr. Coward.*) I do not think they go into offices now at 12. I do not think any of them go before 14.

47,766. (*Mr. Graham Wallas.*) It would be illegal?—I was article'd at 16, and so, judging by my own experience, I should have been qualified at 21; but I think 25 would be a good useful limit—say not under 25.

47,767. (*Chairman.*) You think that five years' experience, from 20 to 25, would be sufficiently responsible and wide to qualify a man for the more important work of the second class clerks?—I think so. Of course, he might have had more than five years' experience at 25.

47,768. You suggest five years as a minimum?—Yes.

47,769. Do you suggest a maximum of age for appointment to the second class?—I really have no means of judging about that. I understand there is a limit of 30, but I do not know whether I am correct in that.

47,770. At present the limit is 30 for appointment to the third class. In the case of the second class I believe there is a limit, but the appointments to the second class are so rare nowadays that it practically is not operative?—A man has to serve 40 years to earn a full pension, and it is hardly fair to make him retire at an age when he cannot have earned a full pension. I should think certainly not over 35.

47,771. Twenty-five to 35 you suggest as the extreme limits?—Yes.

47,772. For the third class clerks do you suggest that any experience in a solicitor's office is necessary?—I think it would be useful for them to have five years' experience generally in a solicitor's office.

47,773. But if a man is going to do the purely mechanical duties that would be assigned to the third class, is that experience essential?—I think it is very useful. I think you will get the best man after five years' experience in a solicitor's office. He gets general notions of business.

47,774. (*Mr. Coward.*) "Method," would not you say?—Yes, "method," I should say.

47,775. (*Chairman.*) If a man is not going beyond the third class, and you have not to think of the qualities necessary for the higher work of the second and the first class, would not an intelligent youth of sufficiently good intellectual quality be able to learn the work of the third class very rapidly?—I do not think he would, because a third class man must know a little about all legal matters; for instance, he must know a summons

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when he sees it, and know what is a plaintiff and a defendant.

47,776. How many days will it take him to learn that?—Not very long, but there are a good many details of that kind which, I think, a man would take some time to learn. He must know the contents of a summons and the meaning of it. It would be quite Greek to a man going in and knowing nothing of legal matters at all. He would not know what a summons meant. I think the training in a solicitor's office is certainly an advantage.

47,777. Is it not the case with every entrant to the Civil Service in every public office that he has, after he enters, to learn the work with which he has to deal?—Yes, I suppose so. I am only speaking of my experience.

47,778. Is there anything so peculiar about the work of a third class clerk in this office that makes it necessary for him to learn it before entrance, whereas it is not found necessary in other offices?—I think there is a good deal that is peculiar in the practice of the Chancery Division which he would have to get hold of, and, therefore, I would still say that five years' experience in a solicitor's office would be a great advantage.

47,779. What age would you suggest for the entrance of a third class clerk?—A man might come in at 20, I think.

47,780. From 20 to 25?—From 20 to 25.

47,781. Do you think the present system of appointment of clerks is the best?—Yes; I do not think that that can be improved upon. The Lord Chancellor appoints, and he sends a request to the senior master to make some sort of examination of the man to see whether he is fitted or not. The senior master does not recommend the appointment.

47,782. He simply reports on the qualifications as judged by personal interview?—Yes. I am saying this subject to my former remark, that I think a solicitor's clerk would be the best man. I would not appoint a man who has not been a solicitor's clerk.

47,783. You would retain the present system of appointment, but would make service in a solicitor's office an essential qualification?—Yes.

47,784. It has been suggested that competition might be applied to the selection of clerks for these offices, as it is for the public offices in general. What is your view as to that?—I do not see any advantage in competition. If you get the particular class of man, as you would here—solicitors' clerks—who are fitted for the work, then I think selection is best, because you select not only from the qualifications needed for passing examinations, but also from what you judge of the man after talking with him. You get a good notion of whether he is the sort of man who would be fitted to occupy the post. I am rather against competition.

47,785. It would be possible, of course, if the qualification of service in a solicitor's office were considered essential, to have a competition among persons possessing that qualification?—Yes, but I should feel the same objection to that. I think selection would be better than competition.

47,786. You think the quarter of an hour's interview is a more effectual means of selection than a competitive examination?—Yes, I think so.

47,787. Turning to the question of the appointment of masters, do you consider that the present system is the best?—I think the judge should certainly have a voice in the appointment—at any rate in the selection of the man to be appointed. I think that was the old practice. I do not think the judge formally appointed; I think he selected and then submitted the name to the Lord Chancellor. I certainly think it would be better if the judge still had a voice in the selection.

47,788. You suggest appointment by the judge subject to the approval of the Lord Chancellor?—Yes. That is subject to any suggestion for a committee, which personally I am rather in favour of.

47,789. The suggestion has been made that a standing committee should assist the Lord Chancellor in his selections by reporting to him on the qualifications of

the candidates?—Personally, I think that would be a good plan.

47,790. You think that would be useful?—I do.

47,791. The system which the present Commission has recommended for professional appointments in other parts of the public service is a committee partly representing the higher officers of the departments concerned and partly some independent authority such as the Civil Service Commissioners. Would a committee of that kind commend itself to your judgment?—It would.

47,792. We have had from Master Romer a very full statement of the work of a Chancery master. Do you consider that it is essential that the whole of that work should be performed by the master personally, or do you think that any of it could be devolved upon the clerks?—I do not think any of it could be devolved upon the clerks. I think all the work that the master does now ought to be done by him, and I do not think any part of it is proper to be dealt with by a first class clerk.

47,793. In the past there has been a gradual process of devolution, I suppose?—Yes.

47,794. Practically the whole of the work done now by the master was formerly done by the judges?—Except the accounts and inquiries and making certificates—that is peculiar to the masters.

47,795. But the whole of the judicial work?—Yes.

47,796. And some of the work now done by first class clerks?—Yes, that was first sanctioned in 1875 by Sir George Jessel, in his chambers.

47,797. That was the making by the first class clerks of orders for time, and matters of that kind?—Yes, and "discovery" and "stop" orders.

47,798. But you think that that process of devolution has been carried as far as it is possible to carry it?—I think so. I do not know whether the Commissioners have seen it, but Mr. Toye, one of the first class clerks, prepared a list of things which he thought they might be able to do, and I have looked through it carefully.

47,799. Mr. Toye's statement is before the Commission, but we have not yet had Mr. Toye as a witness. Do you consider that any of the matters he mentions could be transferred to the first class clerks?—He mentions some matters which I do delegate to my clerks.

47,800. Does that indicate some difference of practice in the different chambers?—I think possibly there may be some slight differences of practice. I have simply followed the practice of my predecessor. Under No. 4, "Summonses to proceed on judgments and orders," he speaks of that work as if it were not delegated. I always thought it was. I delegate summonses to proceed, because what has to be done on the return of a summons to proceed is simply to fix the time for filing evidence; but if it involves directing advertisements for creditors or fixing a receiver's security, I have it brought before myself.

47,801. Does that long list of things coming under No. 4 mean a large amount of work in substance?—It would mean a very large amount if it were all included, certainly, because Mr. Toye says under No. 4: "Summonses to proceed on judgments and orders, and "proceeding on the accounts and inquiries under some "of them." That is very wide indeed. That is entirely our work. All that goes before my first class clerk is a summons to proceed on the first attendance, and then he fixes a time for the parties to file the evidence. When they have brought the evidence in, they come to me and I go into it. There is one exception under 4 (d), "Order for foreclosure nisi." The clerk there fixes a time and an affidavit is brought to him—merely an affidavit proving how much principal, interest, and costs are due to the mortgagee. It is a very simple matter, and he deals with it and prepares the certificate for me. Under 4 (e), "Order to carry on proceedings," I think the clerk might deal with that quite well. Under (g) the work is limited to fixing the times for filing evidence. With regard to No. 10, "Summonses for foreclosure absolute," my first class clerk does that where it is a simple case, and I think it is quite fit to be done by him, but not where there is a receiver or mortgagee in possession. No. 12, "Vouching

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pedigrees," my clerk does, and then the pedigree comes to me afterwards. He enters the certificates of births, marriages, and deaths on the pedigree and refers to the affidavit, and it comes to me afterwards and I go through it. I would also agree with regard to "Settling advertisements." Subject to that, I think none of the things that Mr. Toye mentions ought to be dealt with by the first class clerks. It should be remembered that the master is responsible for the whole of the work, and his signature is required to every order and certificate that is made in chambers.

47,802. Are any steps taken to secure uniformity of practice in the different chambers as regards the work passed down to the clerks?—Yes. We meet always once a sittings, sometimes more, to consider points of practice, and, so far as we can be, we are uniform.

47,803. Would that be one of the points considered—how far work is delegated to the first class clerks?—It might very well be one. I do not know that it has been. I dare say we have discussed points of that kind occasionally, but I do not think we have ever discussed the matter as a whole. We might discuss it, and we might come to a conclusion so as to be uniform about it. There is one thing Mr. Toye says in his statement, which I saw, and that is, if the solicitors were dissatisfied with the decision of a first class clerk they might adjourn it to the master. That is simply duplicating the work, which I think would be a great mistake.

47,804. Is not that assuming that the solicitors would be dissatisfied in a large proportion of cases?—Quite so, and then they would be at liberty to adjourn it from us to the judge.

47,805. But if that was only one case in 10, 20, or 30, it would not mean much; the relief would be greater than the addition?—It might not mean much to the suitors as a whole, but it might mean much to a particular suitor in the case so adjourned, who would have to pay two sets of costs on that summons instead of one. There might be several solicitors attending, who would get 13s. 4d. each on a summons before the first class clerk; and, if anyone were dissatisfied, they might adjourn it to the master and get another 13s. 4d. each; and anyone still dissatisfied might adjourn it to the judge, when they would get a guinea each.

47,806. That is the case at present as between the master and the judge?—That is so.

47,807. Are the cases that are adjourned to the judge numerous?—No; I think they come to about 10 per cent. of the summonses that come before us.

47,808. There is no particular reason to think that there would be a greater proportion in the case of summonses before the first class clerks?—Of course, we have not had any experience of it, and it would be rather difficult to say how that would work. I think, perhaps, speaking as a master, I should have more confidence in my own decision not being adjourned to the judge than I should in the decision on one of these points of a first class clerk not being adjourned to me.

47,809. As between the different classes of clerks, do you consider that the distribution of the work is satisfactory, or is there any work done by a higher class which could be devolved upon a lower class?—I think, as a whole, the arrangement is satisfactory, but I believe there is a difference of practice in some chambers. I expect some men are rather better fitted than others for particular work, and they have, perhaps, gradually got some of the work of a higher grade.

47,810. When we were visiting the Chancery chambers I noticed that one of the duties of a first class clerk was, in a debenture case, personally to examine every one of, perhaps, many thousands of debentures, in order to see that they are in order and there are no charges at the back, or anything of that sort. Surely that is work which does not require men of the calibre of first class clerks to perform?—It is very important work. The certificate binds the world, and it is very important to see that it is correct. I should not myself like to see that work delegated.

47,811. It is work that requires accuracy and care, but no judgment?—Yes.

47,812. It is purely mechanical work which requires accurate performance?—That is so. I think, in such a case, if I were a first class clerk I should, if I could,

call in the assistance of one of my juniors to help me in it, and I should say, "You can turn over this and save me a certain amount of time and trouble"; but I would exercise some general supervision over it, and tell the man exactly what he was to do. I should not like to see that work generally devolved on a second class clerk.

47,813. Far the greater number of cases must merely be the inspection of a printed debenture?—Yes.

47,814. The number of cases in which there is anything upon the debentures must be very small?—Yes.

47,815. Surely the inspection could be done by a clerk of lower grade, and, if necessary, in any case of doubt it could be referred to a first class clerk?—Yes.

47,816. (*Lord Mersey.*) These debentures are transferable from hand to hand?—Some of them are bearer debentures, but most of them are registered.

47,817. Some are transferable like banknotes?—Yes. I think the first class clerk might get assistance from his junior.

47,818. (*Chairman.*) That was merely an incident which I observed, which struck me as a specimen of work that might be devolved. Do you consider that the present number of masters is necessary for the performance of the work?—Yes, I think so.

47,819. The suggestion has been made that three masters attached to each linked pair of judges might perform the work instead of four. What is your opinion as to that suggestion?—If I may, I will take my answer from my written statement. The suggestion was made in 1911, when Lord Justice Swinfen Eady was our judge, and he asked me to make a report to him, and what I said was this: "Whether the work of a master is of an arduous nature, your Lordship is able to judge. One thing is absolutely clear to me, and to some of my colleagues to whom I have mentioned the matter; it is that no part of the work can be delegated to the clerks, and, therefore, no addition to the staff of clerks will diminish the work of the master. The work of the clerks (some of it of an important nature, and extremely well done in my division) is shown in the accompanying paper. I will now deal with the suggestion that, as the winding-up of companies was removed from the Chancery chambers in 1892, we have been thereby relieved of a substantial amount of work, and to that extent should be able to undertake additional work. I was appointed a chief clerk in 1891, and had, before that year, in practice as a solicitor some experience of the compulsory winding-up of companies under the Act of 1862. By the year 1892 the practice established by the Companies Act, 1890, had materially diminished the work of the Chancery chambers in winding up, and Mr. Lionel Clarke (the present senior master) informs me that he made a careful calculation of the proportion of winding-up business to the other chamber work in 1892, and that the winding-up business amounted to one-thirteenth or 7·7 per cent. of the whole. If three masters are to do the work of four, we should have to undertake 33·3 per cent. of additional work. The further observation is material, that since 1892 the number of debenture holders' actions has so greatly increased, that the excess would more than balance the winding-up work, from which we have been relieved. I now refer to the evidence of Master Walker and Master Burney, given before the Royal Commission on the Care and Control of the Feeble-minded in December 1906 (see Minutes of Evidence, Vol. IV., pp. 300 and 313). In answer to Question 33,148 Master Walker says, quite correctly, that if the authorities thought proper to transfer part of the work of the masters in Lunacy to us, we could perfectly well do it, and that we were perfectly willing to do it. According to Master Burney (Question 33,126) our work would thereby have been increased by the addition of 150 summonses per annum to each of the Chancery masters, or 600 to the four masters of these chambers. The total number of summonses (including applications under summons for directions) issued in these chambers in the year 1906 was 6,497, say, 6,500, and that represents a great deal less than the whole work of the masters, because it leaves out of account the

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“ work they do in taking accounts, answering inquiries, and adjudicating on creditors' claims. But, taking the summonses only, the addition of 600 Lunacy summonses to the 6,500 Chancery summonses would have meant an increase of 9·2 per cent. in that class of work. The Chancery masters were willing to undertake, in addition to their existing work, not 9·2 per cent. of the whole, but 9·2 per cent. of the summons part of it. This is a very different matter from undertaking an addition of 33·3 per cent. of their whole work. The fact that the work of the Chancery chambers is now done satisfactorily, as I hope I am justified in assuming, may be put forward in support of the argument that more can be done because there are no arrears. But I am perfectly certain that if the attempt is made to put the work of four masters upon three, delays will occur, and arrears will accumulate, as they have done in times past, to the great detriment of the public.” They did not send us the Lunacy summonses, but they did transfer to us the work of appointing trustees and making vesting orders.

47,820. And that has made an appreciable addition to the masters' work?—Yes. The orders are made by the judge, but the summonses come before the master in the first instance. He must satisfy himself that the application is in proper form and that the evidence is sufficient, and then he adjourns the summons to the judge, prepares a note for the judge, attends the judge when the order is made, and gives directions as to drawing it up. Again, there are the poor persons' rules, which throw a good deal of additional work on us, and I happen to be the prescribed officer for the Chancery Division, which means that I get a large share of it, and, in fact, I spent the whole of my last Long Vacation in doing the prescribed officer's work.

47,821. What do you consider the best measure of the work in chambers statistically—the number of summonses or the number of orders, or both?—I suppose you must look at all of it, but I should imagine the number of summonses would be a very good guide.

47,822. The number of summonses, the number of orders made in chambers, and the number of accounts passed would be a fair measure?—Rather the number of certificates made, because every account is certified, and you may have some certificates that deal with inquiries, so every certificate would include accounts and inquiries.

47,823. Has not there been a very considerable reduction in the work in Chancery chambers in the last 20 years or so?—I think there has been certainly a reduction of one kind of work—the heavy work of accounts, and that kind of thing. There are not so many general orders for administration as there used to be; but, at the same time, I think the importance of the work we do has been increased.

47,824. Would you mind referring to the table of judicial statistics of the Chancery Division. Taking summonses first, the annual average from 1888 to 1892 was 20,601, and the average from 1908 to 1912 was 13,286, a reduction of about 35 per cent.?—Yes, that is a very large reduction.

47,825. Apparently it is still going down, because in 1911–12 the number was 12,654, which is lower than the average of the five years ending in 1912?—Yes.

47,826. Taking the orders made in chambers, in the earlier period, the annual average was 9,532, and in the later period 7,634?—I think there you have taken only the orders drawn up in chambers, but you really might include all the orders made in chambers, including those drawn up by the registrars, which are 19,000.

47,827. 19,867 in the earlier period and 13,014 in the later period?—That is so.

47,828. That being a reduction of one-third?—Yes.

47,829. Taking the number of accounts passed, that has been reduced from 2,510 in the earlier period to 1,326 in the later period?—Yes.

47,830. That is adding together both kinds of accounts?—Yes.

47,831. That is a reduction of about 45 per cent.?—No doubt.

47,832. So there has been a very large reduction in the work as judged by the number of operations?—No doubt.

47,833. Has that been set off, if at all, by any increase in the importance or length of the individual operations?—I should say not in length; in importance, yes. I think the work grows more important every year. Beginning in 1883 a great deal of the work that a judge before that year did in court the rules of 1883 provided should be done in chambers, and that work comes to us. Beyond a certain limit it must be dealt with in court, but a very great addition to our work came in that way, such as summonses for payment of money out of court. We have to deal with cases up to any amount—it may be 100,000*l.*—if there has been an order declaring the rights of the parties. That kind of work is very important. In regard to summonses for payment out, we have to see that we pay out to the right person and prevent any possibility of fraud. The 1883 rules provided that a great many cases might be dealt with by originating summons instead of by petition as formerly, such as payment out of court of large funds and the appointment of trustees, under the Trustee Act, and therefore those come to us.

47,834. Is not that a simpler procedure?—Yes, I think it is a very good thing. Petitions we have nothing to do with in chambers, but those originating summonses come to us, and we make the orders. Even where the judge makes the orders we have to go thoroughly into them, see that the evidence is all in order, consider the form of the order, and make a note for the judge, and attend him when he makes the order. So that in many ways a great deal of additional work has been thrown upon us. I have brought with me a list of the cases that I had yesterday morning. May I tell you, shortly, the sort of things I deal with. There were 10 cases altogether. As a rule, on Wednesdays, I reserve the afternoon for preparing notes for the judge, but it so happened that the judge on Monday wanted me to hold an auction yesterday afternoon, so I put in a case at 2 o'clock. I need not mention the names of the cases. The first case was for leave to issue execution under the Courts Emergency Act, a case where judgment had been recovered for 84*l.* costs, and they came for leave to issue execution. They were not satisfied with the debtor's statement as to his being affected by the war, and they cross-examined him. The result was that costs ran up to the amount of 38*l.* to enforce this judgment of 84*l.* It seemed out of all proportion that that should be so, and I had to look at the rules to see what I could do, though I was satisfied that the solicitors were not to blame. I finally came to the conclusion that I would fix the costs, and I did fix them at five guineas, and they were satisfied with that; it was not taken further. That was a matter of some importance and required a good deal of consideration. The next case was an administration action. They had sold some property, and the mortgagee had concurred in the sale, and he came in and he wanted his costs provided for. He was not a party to the action, but I said, “If you come in and bring your costs and choose to submit, I will settle them for you.” The costs were agreed; there was no difficulty about them, but there was a dispute about auctioneer's charges, and they are going to submit that matter to the Court; instead of having an order for taxation, they will submit it to me, and I shall decide it. That was a matter that required some discussion, too. The next was the case of a bank seeking to exercise rights as mortgagees, and asking for leave under the Court Emergency Act. There I found that it was a proper case in which to grant the leave, and the respondent did not appear, and I gave leave.

47,835. If the defendant does not appear, I suppose leave is given as a matter of course?—I think there is some difference of opinion amongst the judges about that. I have heard different views expressed. I always try to find out from the applicant something about the circumstances of the defendant, because one of the judges said to me, “You might find that the respondent had gone to the war after the summons was served, or something of that kind.” So we always try to

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get at the facts. We should not do it blindly, even if he did not appear. The next was a case of the sale of heirlooms, which, by the rules, must go to the judge. The affidavits were left with me to read, and as it was a small case, I said I would mention it to the judge instead of adjourning it to him, so I shall have to mention it next Monday. The next was the case of a creditor who had proved his debt in an administration action, but had ceased to carry on business in his own name, and had formed a company. There was some difficulty about it because he had never actually assigned the debt to the company, and so they took out a summons and asked for an order for payment to the company. I had to read the evidence, and I came to the conclusion that they had made out their case, and I made the order. The next was the case of a next of kin of a deceased person who went to Australia in 1896 and had not been heard of, and the Court directed an inquiry as to whether he was living or dead. Advertisements were issued; they went out to Australia, and finally the man, or somebody who says he is the man, has come forward. That is a matter of very great importance, as he has to prove his identity. That was adjourned for an afternoon appointment, because the evidence was lengthy, and would take a longer time than I could give in the morning. The next was a case in which I made an order to tax costs and gave some directions to trustees in an administration action. The next was a case of claims against the estate of a testator, and I had to disallow some of the claims. Another was a case of queries on a pedigree, and they produced further evidence, and I disposed of various questions I had raised. The afternoon appointment was a case where I held an auction for the sale of certain patent rights in a debenture holder's action.

47,836. Do you hold auctions personally?—Yes.

47,837. Why is that done by a master and not by an auctioneer?—It arises in this way: The party had been before the judge on Monday last, on an application to confirm a conditional contract to sell the rights for a certain sum, I think 150*l*. Somebody else came before the judge and said "I will give 250*l*," on which the first man said "I will give 250*l*." So the judge said "I will send it to the master, and he shall hold an auction on Wednesday, at 2 o'clock, and you shall come in and bid." And the two people came in and bid.

47,838. (*Mr. Coward*.) Is not the answer to the Chairman's question that it costs nothing and no commission is paid?—That is one great advantage.

47,839. If you had to sell by an auctioneer you would have to pay commission?—Yes.

47,840. (*Chairman*.) Was it an open auction?—No. It was between those two. We do not, as a rule, hold an open auction. Finally one of them gave 500*l*., and it was knocked down to him.

47,841. (*Lord Mersey*.) There were no advertisements?—No advertisements.

47,842. (*Mr. Holt*.) The auction was held in your own office?—Yes; in the room in which I sit in the Law Courts. I know *Mr. Coward* is very doubtful about the importance of our work, judging from some questions he asked Master Romer.

47,843. (*Mr. Coward*.) Quite the contrary. I was going to suggest that when you know how to do these things they are readily done, but if they did not know how to do them, the people who had to do them would get into a very great mess. I am quite with you to that extent?—Yes. Might I refer to the evidence that Lord Justice Swinfen Eady gave before the Royal Commission on Delay in the King's Bench Division with regard to the work in the Chancery Division; it is in the Minutes of Evidence, volume I., page 77.

47,844. (*Mr. Philip Snowden*.) Is there any reason why you should not advertise these auctions?—Not at all.

47,845. Because you might have had more bids, and the price might have gone up to 5,000*l*. instead of 500*l*.?—Quite true. In that case there had been no order for sale at all. They had actually come before judgment, and therefore it had to go to the judge in person for leave to sell, according to a particular contract they had entered

into; and they brought evidence to show that if they did not sell in that way nobody would buy at all.

47,846. (*Lord Mersey*.) What was the property?—It was patent rights; and the company was formed for working certain patents. These rights were the principal assets of the company.

47,847. (*Chairman*.) What do you wish to read from the evidence of Lord Justice Swinfen Eady?—It is at the bottom of page 77, the last five lines. My point is that the judge here shows how very important the kind of work we do is, because he says—"One judge takes continuously throughout a sittings witness actions; his colleague takes continuously throughout the sittings the non-witness work; and the judge who does the non-witness work has a very hard time indeed to get through the business in the course of the sittings in the way the business should be conducted." On page 78 he says—"Then the next business is the chamber business on the Monday; that is work that is very trying indeed, and by far the most arduous part of a Chancery judge's work." Then on page 79, in the second column about a third of the way down the page, he says—"I am sure I state it within the mark when I say it takes from eight to ten hours to read the papers,"—those are the notes that we prepare for the judge every Monday, with the papers—"and it means working on Saturday and sometimes the whole of Sunday, and I should be accurate in saying that since the 11th January, speaking for myself, I have not had a Sunday free from work. Perusal of the papers is essential, because it enables one to dispose of the work on Monday, generally speaking, by about half-past two." That was Lord Justice Swinfen Eady's view of the judge's work in chambers.

47,848. That is speaking of the judge's work in chambers?—Yes.

47,849. The judge concentrates the work of four masters?—That is perfectly true.

47,850. (*Mr. Coward*.) That would include the affidavits and the papers. It is more than your notes?—Certainly. We read the papers too. I wish to point out that this work which the judge finds the most arduous part of his duties is the kind of work the master is doing every day. He has a number of cases in the list, and he must concentrate his mind upon each case in turn, hear arguments, give a decision, and then pass to the next case. It must be remembered, too, that the judge has some advantages which are denied to the master. He has a note of the case prepared for him, and he has the assistance of counsel, which the master generally has not. While admitting the ability and knowledge of practice of many of the managing clerks and solicitors who appear in chambers, it only too frequently happens that some one comes before a master who is really ignorant of what is wanted and the form which his application should take. The master then has practically to conduct the case himself, and that involves additional labour and loss of time. Then the master spends a great deal of time out of office hours in reading papers left for his perusal, and preparing notes for the judge is very laborious, especially without the assistance of a shorthand writer. The work of a master is full of difficulty, full of responsibility, and full of pitfalls.

47,851. Is there any reason why he should not have the assistance of a shorthand writer?—I think he ought to have it. I think every third class clerk ought to be a shorthand writer.

47,852. Are many of them shorthand writers at present?—Very few. I think there is one in the chambers next to me.

47,853. You have not one in your chambers?—No, I have not.

47,854. Going back to the statistics of the work, we find that on those figures there had been a reduction of something like one third of the work since 1890. During the same period the number of masters has not varied?—No.

47,855. And the number of first class clerks has not varied?—Certainly not.

47,856. There has been a certain reduction in the number of second and third class clerks?—Yes, because some of the chambers had five, I think.

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47,857. On the figures I have before me the number of second class clerks has been reduced from 18 to 12, and the number of third class clerk from 13 to 12?—I should think something of that kind. I have never had more than four in my chambers.

47,858. So, taking the offices as a whole, including the masters, there have been no reductions of staff corresponding to the reduction of work if those figures may be taken as a fair estimate?—No.

47,859. (*Lord Mersey.*) I should like to know whether, in your opinion, there has been a corresponding reduction in the bulk of the work to be done. I mean a reduction corresponding to the reduction in the statistics that we have heard of?—I think not.

47,860. Then you would not take the statistics as a guide?—I suppose you must take statistics as some guide, but I do not think they are by any means an infallible guide, judging by the work we have to do now.

47,861. I want to know from you whether the volume of work that you have to do now is less or more than the work in 1890?—Certainly it is less, there is no doubt.

47,862. Is it less in proportion to the decrease in the figures?—I think certainly not.

47,863. Could you form any opinion as to the real decrease?—I think the only way I can answer that is this: When I made my report to Lord Justice Swinfen Eady, I came to the conclusion—and my colleagues had done so previously—that we could do about 9.2 per cent. as I put it, or call it one-tenth of additional work, if it were put upon us. I have suggested in my statement that we might do additional work in the way of drawing up orders, which are now drawn up by the registrars. I do not mean that we should draw up all our orders; I do not think we could; but I think we could extend the drawing up of orders, and more orders could be drawn up in chambers than are now. The actual drafting of the orders would be done by a first class clerk and doubtful points would be referred to the master.

47,864. There has been a reduction I see in the number of clerks?—Yes.

47,865. That must mean, I should think, that there had been a reduction in the work?—That no doubt bears upon it. In the old days, in the Master of the Rolls' chambers, I think there was a good deal more work than in some of the other chambers, because the solicitors had a right to choose their judge, and I think in the Master of the Rolls' chambers there were five clerks, but in our chambers never more than four, and I think the reduction which has taken place must have been the reduction of the fifth clerk all the way round.

47,866. (*Chairman.*) I see the reduction has been entirely in the lower class of clerk?—Yes.

47,867. As present there are as many first class clerks as there are second and third class clerks put together?—Yes.

47,868. In the other offices of the court, especially in the Central Office, the proportion is the other way—a considerably larger number of third and second class clerks than first class clerks?—Yes.

47,869. Can that difference be justified?—I think it can. If I may refer again to my statement, I say: With regard to the number of first class clerks, viz., two to each master, the fact is accounted for by the nature of the work. If the work of the King's Bench judges and masters is compared with that of the judges and masters of the Chancery Division, it will be found that the work of the former is almost entirely judicial, and is performed by a large number of judges and a small number of masters. In the Chancery Division there is a very considerable amount of administrative work; the number of judges is much smaller, and the number of masters far greater in proportion. The most important work of the first class clerks is administrative viz.: (1) Vouching accounts of executors, trustees, receivers, and guardians of infants; (2) preparing and settling the master's certificates, including the checking of pedigrees; (3) preparing for the master's signature notes of orders made by him. In my opinion none of the first class clerks in the Chancery Division can be spared.

47,870. You think that none of the work done by them could be done by second class clerks?—No, I think not.

47,871. Do you consider the present organisation satisfactory?—Yes. I do not know that I could suggest any improvement in the organisation.

47,872. There is practically no delay at present?—There is no delay.

47,873. Is there any delay with regard to the longer appointments?—No delay, except what is absolutely necessary. I mean there is no delay on the part of the court; the delay is on the part of the people who come and have to go away for further evidence.

47,874. In the case of a long appointment which has to be adjourned, in your chambers at present, how soon can a further appointment be obtained?—Within a week. I do not think it is ever much longer than that or ever any longer.

47,875. Would that be the usual period for an adjournment?—Yes; if the solicitors wanted an appointment for an hour, I am perfectly sure that they could always get one within seven days.

47,876. On the question of the limit of age for retirement, dealing with the masters themselves in the first place, it has been recommended by, I think, more than one committee or commission that a limit of age should be imposed. What is your view upon that point?—Having regard to the fact that the qualification for a Chancery mastership is ten years' practice as a solicitor, and that, by the Superannuation Act 1914, the ten years added for professional knowledge in calculating pension is abolished, practically no master appointed after that Act can earn a full pension. I was appointed at the age of 36, and, if subject to the present law, I should have to serve to the age of 76 to earn a full pension. But the average age of appointment is between 40 and 50. I am entirely against the abolition or reduction of the ten years' practice as a qualification, and I consider that, as long as a man is in sound health, age is no disqualification for the duties of a master, but rather an advantage, from the greater experience acquired. I think, therefore, that no age limit is desirable. A clerk is on a different footing. He might enter a solicitor's office at 15, and if my suggestion of the qualification of five years' service as a Chancery clerk were adopted, he might be eligible for a second class clerkship at the age of 20. If he obtained the post at 25, he would have earned a full pension at 65, but his experience at that age would in ordinary cases be much too valuable to lose, and if an age limit were fixed I would suggest 75.

47,877. In the case of the masters, do you think 40 to 50 is the right age for appointment?—I think so. I think 40 is quite soon enough.

47,878. Would your opinion on the question of an age limit be modified if the system of added years for pension were still continued?—I think it would make a considerable difference.

47,879. (*Lord Mersey.*) The question is, would your opinion be modified. I do not see how it ought to affect your opinion?—We have an Act of Parliament just passed in 1914, which says that there are to be no added years, so that the question can hardly arise.

47,880. Does the Act of 1914 apply to the officers of the Supreme Court?—I may be wrong, but my former remark was based on the supposition that it did.

47,881. (*Chairman.*) If that Act does not apply, or if it were repealed and the added years still applied to masters, would that modify your opinion as to a fixed age for retirement?—I think it would modify it. I should then say that I should prefer not to have an age limit, but if there was an age limit I should suggest that 75 would be early enough.

47,882. The age which has been suggested by, at any rate, one of the previous Commissions, was 70?—I think 70 is too early.

47,883. Do you think that, as a rule, after 70 a man retains his full vigour and activity?—I think so, judging from my own colleagues. One, I remember, was quite fit up to the age of 80, and, I think, he retired at the age of 82, or something of that kind.

47,884. Leaving aside present holders of the office, have you ever in the past known a case of a master

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retaining office after his powers had begun to diminish?—I remember one very remarkable case, but that was from ill-health; it was not age. One man I have in view was fit for the work in one way, but he was deaf, and, I think, that was his disqualification. I do not remember any other case in which a man has held on after he was unfit.

47,885. I take it that there is no lack of perfectly suitable candidates for the office of master?—I imagine not. Sir Kenneth Muir Mackenzie would know what applicants there are.

47,886. Judging from the result, you would say there is no lack of suitable candidates?—There is certainly no difficulty in finding a candidate when a post is vacant.

47,887. So even if under a fixed age limit a master retired while he was still capable of rendering valuable service, the public interests would not suffer if he was replaced by a perfectly competent new appointment?—Does that suggest that he would be liable to be called on to perform service?

47,888. No. I suggest that if perfectly competent candidates are available for any vacancy, the public service will not suffer by the retirement of a master at 70 and his replacement by a perfectly competent new appointment?—But I think the man of 70 would be necessarily much more competent than a man only just appointed, and there must be some loss to the public in that way.

47,889. But at some time the man of 70 must be replaced by a new appointment?—Yes.

47,890. Does the public interest suffer materially by that replacement taking place a few years earlier?—I think the additional services of a man from 70 to 75 would be a distinct loss to the public if he were retired while fit for the work.

47,891. Even if there is a perfectly competent person who could be appointed to replace him?—Yes, because I should not look upon a man newly appointed as perfectly competent compared with a man who has had the experience. I do not think any man is competent, really, until he has had 20 years of it.

47,892. You put the period as long as 20 years?—At any rate he is more competent after 20 years.

47,893. (Lord Mersey.) Then they always start incompetent?—I am afraid so. I speak from experience in my own case.

47,894. (Chairman.) In the case of clerks you suggest that if an age limit is fixed it should be 75?—Yes.

47,895. That is a much higher limit than obtains in the Civil Service generally?—I believe so.

47,896. In the Civil Service generally a clerk is entitled to retire on pension at 60, and is required to retire not later than 65, with power of special prolongation in certain cases?—Yes.

47,897. Is there anything in the work of the clerks in the Chancery offices which makes it desirable to put the limit 10 years later?—I think there must be, but I am only judging from my own experience of the clerks in chambers. There are men who are perfectly fit up to 75. I will not say many, but I have known cases.

47,898. In the majority of cases would a man be as fit at 74 as he is at 64?—I should say so, for that kind of work.

47,899. (Lord Mersey.) Would the same observation, applying to a man of 74, apply to another of 84?—No.

47,900. Then there is a point at which he changes?—There must be, no doubt, but I would not put that at much earlier than 75 for this kind of work in chambers.

47,901. Before passing on, I wish you would tell me again what "linked judges" are?—There are six judges of the Chancery Division, and there are three divisions of them each of two judges, who are linked. The linking means that during one sittings, one judge tries the witness actions, and the other judge does all the interlocutory and non-witness actions and chamber work. Then during the next sittings they change about. That is the linked system.

47,902. (Chairman.) And a case which has been originally assigned to that pair of judges remains with that

pair of judges, but it may be transferred from one to the other of those judges?—Yes, it may be tried by either.

47,903. (Mr. Coward.) The point is that the witness actions go on continuously before the same judge through a term?—Yes. That is the great advantage of the system.

47,904. (Lord Mersey.) I thought the judges took the witness actions in turn?—Yes, in turn of sittings.

47,905. During one sittings one judge takes them, and during the next sittings the other judge takes them?—Yes.

47,906. Therefore they are not continued before one judge?—No, only during the sittings.

47,907. (Mr. Coward.) During the sittings you do not have any change in the judge?—No.

47,908. (Lord Mersey.) Before this arrangement was made was there a general list?—Before this arrangement each judge had his own cases in his own chambers, and then he tried witness actions on certain days in the week, and on the other days he disposed of interlocutory matters and non-witness actions.

47,909. (Chairman.) The whole organisation of the masters and officers in chambers is based on the system of linked judges?—Yes.

47,910. That is to say, certain masters and the clerks belonging to those masters are assigned to one pair of linked judges?—That is so.

47,911. And the whole of the matters arising out of the cases assigned to that pair of linked judges go to one or other of the masters attached to that pair of linked judges?—That is so.

47,912. The distribution between the four masters attached to that pair of judges being alphabetical?—Yes.

47,913. Are you of opinion that that system has worked satisfactorily?—Most satisfactorily.

47,914. Are there any observations that you wish to make to the Commission with regard to it?—No, I think not, except to say that it has worked most satisfactorily. I say in my précis how important it is that the masters should be attached to judges, and should not be a separate body as they are on the King's Bench side.

47,915. You think it would not work so well if the masters were a general body, and not attached to a particular group of judges?—No, I think not. I have found no difficulty in serving under two judges, but I should feel anxious at the prospect of having to serve under six. I think it would be most unfortunate in the public interest if the present relations between judge and master were disturbed.

47,916. Passing to another point, the question has been raised of consolidating or amalgamating the Chancery Registrars' Office with the Judges' Chambers. As you are aware, that was recommended by the Committee of 1886, and was approved, I believe, by the Council of Judges in 1892. The more recent Committee, presided over by Mr. Justice Kekewich, in 1907, did not recommend it; but there was a minority report of that Committee, which recommended it. Will you give us your opinion on that question?—The work of the registrar in court is extremely important, and, in my opinion, should not be delegated. One of the principal duties of the registrar is to assist the Court with information on points of practice, and the ability to do this rests on experience. A clerk would not be qualified to perform this duty. This was the view of Mr. Justice Pearson (Report of 1886, page 12). Perhaps it applies less to the trial of witness actions where points of practice are not so likely to arise. Experience and skill are required for the drawing up of Chancery Orders, some of them, and especially those to be acted on by the Paymaster-General, being of a complicated nature.

47,917. We have had some difficulty in discovering exactly in what cases the orders made in chambers are sent to the registrar to be drawn up, and in what cases they are drawn up in chambers. You say orders to be acted on by the paymaster shall, unless the judge otherwise directs, be drawn up by the registrar, and every other order made in chambers, unless the judge otherwise directs, shall be drawn up by the master?—Yes.

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47,918. Is that the line practically followed, or has the judge directed that any class of orders made in chambers, other than those to be acted on by the Paymaster-General, shall go to the registrar?—I think directions must have been given by the judge in my division, but it is long ago; it must have been before my appointment. Ever since I was appointed we have drawn up all procedure orders—that is, orders for interrogatories, for discovery of documents, and for time—but all other orders, except in a few instances, we send to the registrar. The only exceptions I can think of are orders extending the time for a receiver to act as manager. The powers of management are limited to three months by the Court. Then they come to us in chambers, and we extend the time if a proper case is made out. We draw up these orders. The orders under the Courts Emergency Act, recently passed, we draw up in chambers; it is a saving of expense to the parties. Of course, at any time, for any special reason, we can have an order drawn up in chambers, but, as a rule, we do not do it.

47,919. So that, practically, the line is drawn mainly between procedure orders and other orders?—Yes, in my chambers.

47,920. That is apparently not contemplated by Order 55, Rule 74, in regard to “orders to be acted on by the Paymaster-General” and “other orders”?—That is so. I am speaking of my chambers; the other chambers may differ.

47,921. Does the practice differ materially?—I think it may. I think some of the masters have more orders drawn up in chambers than others.

47,922. Do you consider there is any reason why the line contemplated by the order should not be followed?—No; I think it might be.

47,923. That would mean the drawing up of a considerable number of orders in chambers?—Yes, it would. We might want more help.

47,924. What is your opinion about the consolidation to which I have referred?—If consolidation is decided upon, the only practicable method will be to allow the present registrars to continue to sit in court and draw up orders, altering their title to “master” if preferred, and attaching two to each of the three branches of the Chancery Division. Upon retirement, the present holders of the office might be replaced by gentlemen holding the qualifications now required of masters, and thenceforward the whole work of the combined departments could be distributed amongst the masters. But the next step would inevitably be to abolish the present relations between judge and master, which I should much regret. Under Sir Kenneth Muir Mackenzie’s scheme there would be six masters to each branch of the Chancery Division, and this would be an inconveniently large number to be under the direction of a single judge. I do not think that the registrars would be fitted, from the nature of their experience, to undertake the work of the masters, as suggested by Sir Kenneth Muir Mackenzie. I say this without intending the slightest disrespect to them, and I believe that they would agree with me. To hand over to them a share of the master’s work would be like appointing a military officer, however distinguished, to join a naval captain in the command of a ship. I do not know which of them would have the greater cause to complain, but I am sure that the captain would lose a great deal of valuable time in teaching the new officer his duties. My colleagues agree with me, that it would be impossible for a master to perform his duties in chambers properly if he were required to take his turn of sitting in court. That I have consulted my colleagues about, and they have authorised me to say that. I wish to say that, before I heard Master Romer’s evidence, I was not aware that any cause of friction existed. Differences of opinion will necessarily arise from time to time, but I do not remember any which have not been easily adjusted. It is the registrar’s duty to point out what he considers a defect before drawing up an order. I am authorised to say that the rest of my colleagues take the same view as I do. Master Romer stated that this part of his evidence was given without opportunity of previously consulting his colleagues, and he has since given me authority to say that it was not any personal friction between the registrars and masters

that was in his mind. His suggestion was that some better arrangement should be made for easier means of communication between the two departments.

47,925. (*Lord Mersey.*) Do you use the word “consolidation” here in the same sense in which the word “amalgamation” has been used?—I think it is exactly the same thing. I think the word “consolidation” I received from the secretary, and followed that expression, but it means amalgamation as I understand it.

47,926. (*Chairman.*) The scheme which you mentioned as the only practical one is, substantially, the scheme suggested in the memorandum prepared by Sir Kenneth Muir Mackenzie for the Committee of 1907, which the Commission have before them?—I think it is, but it is subject to what I said just now about the impossibility of the masters sitting in court and doing their chamber work as well, because it breaks in upon the chamber work. I do not think Sir Kenneth Muir Mackenzie contemplated any distinction of that kind.

47,927. Sir Kenneth Muir Mackenzie’s scheme contemplated, I think, that for a time, at any rate, the two registrars who would be added to the chamber offices of each group of judges, would continue to perform their duties very much as at present?—Yes.

47,928. And that, presumably, would include the sitting in court, in so far as it was considered necessary to continue the sitting in court?—Yes.

47,929. Suggestions have been made that it is not necessary that a registrar should sit in court, at any rate, to the extent he does at present?—I believe that is so.

47,930. But your difficulty as regards the masters sitting in court would be removed, so far as the present masters are concerned, if that duty attached to the registrars who were transferred to the chambers of each group?—Yes, but I do not think that in the future masters who have to do the chamber work could fit it in with the court work. Their chamber work ought to be continuous. I suppose if there were six masters, two of them might have to sit in court for a whole sittings. That would disorganise their work in chambers terribly. Or they might have to sit for a whole week, and again their colleagues would have to do their work for them, which would be extremely awkward.

47,931. (*Mr. Coward.*) Need they sit in court except on motion days, do you think?—There are other days on which interlocutory business is taken—petitions, short causes, and things of that kind. I think it would upset the work in chambers very much if we had to sit in court. The solicitor who comes for an appointment may say: “I want an appointment for such a day; it is very important that I should have that day, because I have to send a ward of court abroad” and he wants to start on Saturday.” If we say, “I am sitting in court that day,” then somebody else must take the work. Our practice is for work, as far as possible, to remain in the same hands.

47,932. I am suggesting that you need not sit in court?—That would get rid of my difficulty.

47,933. (*Chairman.*) I will read to you the statement of the Committee of 1907 on that point: “Some members of the Committee were disposed to think that the attendance of a clerk on the judges taking non-witness business would also suffice”—that is a clerk, not a registrar—“but the judges consider the attendance of a registrar as regards this class of business essential, and the Committee came to the conclusion that the number of the staff should be fixed on this basis, which will necessitate three registrars being in court daily, except on Mondays.” Assuming that that is essential, it could be met if certain of the future six masters attached to each group were temporarily assigned during any sittings to the order and court work, while other masters were left to do the chamber work?—Yes, but that would interfere with the continuous chamber work of the masters.

47,934. Not if the four masters were doing the chamber work, as at present?—Do you mean that two masters might be attached specially for doing work which the registrars now do?

47,935. That is the suggestion, to begin with at any rate; and I suggest that if the sitting in court is essential, and is an interruption to the chamber work, even

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when the amalgamation is complete, a special assignment of two officers for the present registrar's work might continue, perhaps, in rotation?—That would meet the difficulty.

47,936. Apart from the question of any difficulty in the actual carrying of it out, do you consider that there would be an advantage or the reverse in amalgamation?—I fail to see any disadvantage, except a certain amount of disorganisation, which must always take place. I suppose one important element is whether there would be any saving in money, and, if there would be, of course, that is a thing that we must all assent to.

47,937. That is one important element. Another element would be the saving of time and energy that there might be through the matter having to pass through one office only, instead of two different offices before the order is complete?—Yes.

47,938. That means, does it not, that an entirely fresh officer has to bring his mind to bear on the matter and study it before he can draw up the order?—Yes. Of course, there is an advantage in that, more particularly in dealing with orders to be acted upon by the Postmaster-General for payment out of court. There is always a possibility of fraud and of money getting into the wrong hands. If it goes through two officials, there is a useful check.

47,939. But is not the master who has been dealing with the matter in all its aspects, with the aid of his clerks who have also been dealing with it, quite sufficient check on any fraud?—I should think the registrar is the more valuable check perhaps. It goes into a fresh department, and he looks it up from the beginning and goes over it again.

47,940. (*Mr. Boutwood.*) The last few questions have put me into a little difficulty. Apparently the suggestion is to amalgamate the registrars and the Chancery masters. The Chancery masters, I believe, are appointed from outside solicitors, and the registrars at present are trained up in another department, and are appointed from the clerks in that department?—Yes.

47,941. Certainly some one—I forget who—regarded that as almost essential, and said that the registrar was something made by a long process of experience. If you amalgamated them, what would you do? The men who would do the registrars' work after amalgamation, if they were just ordinary Chancery masters appointed as the present Chancery masters are, would not have that preliminary training?—That is perfectly true.

47,942. Would that be a difficulty?—I do not think it would be much of a difficulty.

47,943. (*Mr. Philip Snowden.*) As a general rule, the first class clerks and the second class clerks hitherto have been promoted from the third class?—Yes.

47,944. The number of outsiders who are brought in is only a small proportion of the whole number?—I am speaking rather without book, because I have only general knowledge, but I should say that that is so.

47,945. You do occasionally introduce an outsider direct into the second class?—Yes.

47,946. Are the second class clerks and the first class clerks efficient. Is their work being done well?—I should say certainly, as a whole, very well.

47,947. Then what reason is there why that practice should not be continued, if it has proved satisfactory hitherto—that you should continue to recruit your third class with prospects of promotion to the second and first class?—Of course, one can only judge by experience of particular men. What you feel is, that a man comes in without any knowledge of the particular work, which he would have if he had been a solicitor's clerk; it is true that he may get on in time and fit himself for the work, but he would be much better fitted for the work if he started with that additional training.

47,948. But the work of the third class clerk, I understood you to say, is not of a very important character?—Not very important.

47,949. I believe it was described as routine work?—Yes, I think you may say it is.

47,950. Would not the experience he would gain of the work of the department, in which he was serving as third class clerk, be as good as the experience that he would get in a solicitor's office as a very young junior?

—I think not, because I would have the second class clerk to be a solicitor's Chancery clerk for five years, so that he would be fitting himself for the work; whereas the work of the third class clerk, it seems to me, has very little to do with the work of the second and the first class.

47,951. But you told me just now that the work of the first and second class clerks has been done quite efficiently, and has been quite satisfactory?—Yes, I said that, generally; of course, there are exceptions. I do not want to call attention to any particular cases, but there have been exceptions. Generally, it is very well done.

47,952. Do you think, then, that if you were to hold out the prospect to young men who have served five years in a solicitor's office of a permanent post, never carrying a salary of more than 200*l.* a year, with all chances of promotion, whatever the ability of the third class clerk might be, blocked, that would be sufficient to induce young men of any capacity or ambition to take up such a post?—I think it would. I am rather judging the solicitor's clerk. There is many a solicitor's clerk who goes on to the end of his days not getting more than 200*l.* a year, and I suppose there are many who go on getting much less.

47,953. But if he be a young man of fair ability, he would not be condemned all his lifetime to a subordinate position like that. There would, at any rate, be some chance of promotion if his merits deserved it?—Yes.

47,954. Do you think it a desirable thing that there should be in any department of the public service a stone wall facing a man which he knows he never can surmount, however good his abilities may be. Do you think that that is likely to induce a young man to put forward his best efforts?—Of course, in this case, you have not the special knowledge required. It would be still open to any young man who wanted to get on to look out for a post as Chancery clerk, and to fit himself for a second class clerkship; but I do think, if a man starts as an ordinary clerk and fits himself for a third class clerkship, it would certainly be to the interest of the public that his promotion should stop—of course, if he took it with notice that it would be so.

47,955. But is not that rather inconsistent with the condition you lay down, that a second class clerk should have experience as a solicitor's managing clerk. The third class clerk would not be able to get that experience?—According to my plan he would have had some experience of a solicitor's office.

47,956. Not as a managing clerk?—Not as a Chancery clerk; but it is always open to a man knowing that there is a post open to Chancery clerks, to say, "I want a post as Chancery clerk," and if he can get it he would then be qualifying himself for the second class. There are plenty of men in solicitors' offices who would be very glad to get a post which brought them in 200*l.* a year with a pension at the end, and they would be quite as well off as if they stopped on in a solicitor's office.

47,957. That may be the case, but it hardly meets my point as to the opportunity of advancement for young men of exceptional ability. Do not you think some way ought always to be open for such a man as that?—I have provided for that by saying that, in exceptional cases, a man shall be promoted from a third class clerkship.

47,958. (*Lord Mersey.*) I notice you qualify what you say by these words, "Reserving a power to promote in cases of exceptional merit"?—Yes.

47,959. (*Mr. Philip Snowden.*) Is not what happens at present before a man can be promoted from the third class to the second class, that although the general rule is seniority, the recommendation must be accompanied by a certificate of efficiency?—That is perfectly true, but when a third class man comes in he knows he has a chance of becoming a first class clerk, whereas, under the system I suggest, he would be told that he would not have that chance.

47,960. (*Chairman.*) What is the meaning of the words, "reserving a power to promote in cases of exceptional merit." He would know that?—Certainly he would know that.

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(*Mr. Holt.*) Is not your sentence really a contradiction in terms.

(*Mr. Matheson.*) Surely not. In the one case a man comes in with a prospect of going to the first division in the normal course; in the other case he comes in with a prospect of going to the first division only if he shows very exceptional capacity.

47,961. (*Mr. Holt.*) How can a man have no expectation of promotion if he is able to get it in exceptional cases? Any man has a prospect if it is done in exceptional cases?—But there is all the difference if you tell a man to begin with, "You are to have no right of promotion. It is true there is power to appoint a man of exceptional merit, but you are not to count on that."

47,962. Do you think, from your experience of the public service, that telling a man he has no expectation of promotion would prevent him having an expectation of promotion? It would not really affect his expectation if anybody ever got promotion?—I think it would make all the difference if you told a man that, which is quite different from telling him, as you do now, that if he goes into a third class post he has a good prospect of rising. You tell him, instead, that he has very little prospect, and he knows it, and he comes in notwithstanding.

47,963. But are not his real expectations what he sees happen, and not what you tell him?—If his expectations are fulfilled and he does show exceptional merit, of course he would get on.

47,964. (*Chairman.*) Is not the difference this: that in the one case you say the normal method of recruiting to the second class is by direct appointment, and in the other case, as at present, you say the normal method is by promotion?—Yes, and he would be told that.

(*Mr. Holt.*) Does that affect his expectations?

47,965. (*Lord Mersey.*) I do not know how you propose that the promotion should be made in cases of exceptional merit. Who is to do it?—No doubt that would have to be settled. I suppose the person who knows the man best would be the master in whose chambers he was, and who would probably be asked to recommend.

47,966. (*Mr. Graham Wallas.*) The organisation of your office is, so to speak, in compartments; each master has certain clerks assigned to him?—Yes; as a matter of actual fact they are assigned to the judge; we are all officers of the two judges.

47,967. But between the clerks and the judgestands the master?—Yes.

47,968. Is the discipline of the office also in compartments?—Yes, certainly. Each master is responsible for the discipline in his own department.

47,969. Does each master keep a time-book in his own chambers?—Not each master. We have for the attendances in the morning one book for three masters in our case, because three of our body are on one side of the building and the fourth is on the other side, so it is more convenient to have a book for the three; and that book is taken in to the junior master every morning by the messenger.

47,970. But you have no means of knowing what the custom with regard to time-books may be in the chambers of any other master except those three?—No, I do not know.

47,971. Is it the custom, for instance, that if a clerk is there at 10.15 he may enter himself as being punctual in your time-book?—I should think it is. I am going back now to the time I was junior master, because I have not seen the book for some years. I think he is allowed something like 20 minutes' grace.

47,972. He is punctual if he is there 20 minutes late, even if regularly there every morning at that time?—I suppose there would be no means of checking that.

47,973. But if there was a difference in the management of the different time-books, the junior master concerned would not know anything about it?—No; he would only know about his own time-book.

47,974. Do you think that some measure of uniformity in the office in that respect might be desirable?—I think very desirable.

47,975. When I was given, the other day, a statement with regard to the ages of clerks in the Chancery

chambers, two clerks were returned as ill. Do you know whether they are still ill?—They are both ill, I know.

47,976. If their illness continued there would ultimately come a question of office organisation and discipline, as to whether some official notice of their incapability should be taken?—Yes.

47,977. Is that, again, a matter which would be settled entirely in particular chambers or in a group of chambers?—The master responsible would communicate with Sir Kenneth Muir Mackenzie.

47,978. There, again, as far as I know, no measures whatever are taken to secure any uniformity of practice in that respect in the office?—No. I think really the practice there is governed by the Lord Chancellor's secretary. We probably all do the same thing. If we have a clerk who is away ill, and is likely to be away ill, we write to him and report it.

47,979. The number of days' absence which may go on before that machinery comes into action would naturally differ in different chambers?—Very likely it would. There is a rule that no man may be absent for more than three days without sending a doctor's certificate.

47,980. But the question, which is the all-important question, of the period at which further action shall be taken, differs according to the discretion of the different masters?—I think that it would.

47,981. Do you think there again some measure of uniformity might be desirable?—Very desirable.

47,982. Do you think it might be desirable to appoint an official who in other Government departments is called a chief clerk, who is responsible for the details and discipline throughout the whole office. Might that be possible in your case?—You mean throughout the Chancery chambers? Yes, I should think it would be a very good plan indeed.

47,983. With regard to the office of senior master, in what real sense is the senior master responsible for the organisation in the office?—He is not in any way responsible for anything but his own chambers, except that, as senior master, he has necessarily to deal with a good deal of correspondence which is addressed to the senior master. If there are any communications from the Lord Chancellor affecting the whole body of masters they would come to him. He also presides at our meetings and calls the meetings.

47,984. At present he has certain administrative duties in dealing with the whole office?—Yes.

47,985. And if an attempt were made to introduce a larger measure of uniformity in the discipline of the office, those duties would probably increase?—Yes. I should think the duties of the senior master would increase if the chief clerk were put under him.

47,986. That is what I am supposing. You have been a master for 23 years?—Yes.

47,987. Putting aside all present questions, and looking back into the past, do you think it might be an advantage if the custom in other offices were followed by which the chief administrative officer was selected rather than appointed by pure seniority?—Are you speaking of some such officer as a chief clerk?

47,988. No; I am speaking of the senior master?—I think it would not be a bad idea if he were appointed by election, but I do not quite see how it is to be done.

47,989. The Lord Chancellor, for instance, might do it?—He might. I suppose it must be either that or by seniority. It has never been anything but seniority before.

47,990. I am not asking you what it was, but what it ought to be?—I think it would not be a bad plan, and I express this opinion with the less hesitation because in the ordinary course I shall be the first person liable to be displaced if such a regulation is made.

47,991. You can recall in the past occasions on which the master who happened to be the oldest was not necessarily the best administrative chief of the office?—I do not think I can. There have been about four or five different senior masters since I was first appointed, and I think the senior master was always very fit for his post.

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47,992. But was he always the most fit?—I should think so.

47,993. (*Lord Mersey.*) I suppose experience counts for a good deal?—Yes, it does.

47,994. (*Mr. Graham Wallas.*) You know that the third class clerks at present have to pass an examination?—Yes.

47,995. Do you know anything about that examination?—I do not.

47,996. Your scheme for future appointment to the second class contemplates that those solicitors' clerks who are appointed to the second class shall have gone into a solicitor's office at the minimum legal age of 14?—Not necessarily, because, as was pointed out, the limit I finally proposed was 25 for appointment, so they might go in as late as 20. The case I put was of a boy going in at 15 having five years' experience, and at 20 being qualified for the office, but not getting the appointment until 25.

47,997. The calculation I followed in your words was that he went in at 15?—Yes, he would be all the better for that first five years.

47,998. You know that a growing proportion of the more promising lads in London take an education beyond the minimum legal age including some form of secondary education?—Yes.

47,999. If that scheme of yours were followed out, none of those lads would come in?—Of course, they might go on with that form of education instead of going to a solicitor's office at 15, and would still be available at 20 to go into a solicitor's office.

48,000. Do you think it desirable that, if you are distinguishing between those who go into the second class and those who go into the third class, those who go into the second class should normally have an education beyond the legal minimum?—I really do not know enough about the qualifying examination. It is desirable that a clerk should have some general knowledge, and therefore should pass some form of qualifying examination; but whether he would have to work after the age of 15 for that I am not sure. I think at the age of 15 I passed the preliminary examination for the law.

48,001. You have in the Chancery Department a Scrivenery Department where scriveners are employed?—Yes.

48,002. Are you familiar with the conditions of their employment?—Not at all. If documents have to be copied, they are sent down and come back again.

48,003. You said that in the old days the individual judges, in fact, used to choose the masters?—I think they selected them and submitted them to the Lord Chancellor.

48,004. And you said you thought there was a good deal to be said for the revival of that practice?—Yes, for giving the judges a voice. Then the Chairman suggested a committee, which, I think, might also be desirable as an assistance to the judge.

48,005. Do you remember the old system?—Yes.

48,006. Was it the case that the judges were in their nominations very largely guided by family connection?—I never heard that it was so. That is the first I have heard of it.

48,007. (*Mr. Philip Snowden.*) But did it sometimes happen that relatives of judges were appointed?—Master Romer was a cousin of a gentleman who was afterwards a judge, but I do not recollect any other case to my knowledge.

48,008. (*Mr. Holt.*) You are not a relative of a judge?—I am not.

48,009. You said, perhaps not very seriously, or I understood you to say to Lord Mersey, that all the masters were incompetent when they were first appointed?—I should not put it quite so strongly as that. What I said was, I think, that they were not nearly so competent when appointed as when they had had 20 years' experience.

48,010. And you went on almost to say that the length of experience alone would make one master more competent than another?—Certainly. Assuming their intellects were alike, the man of 20 years' experience would be much more competent than the man just

appointed. I do not mean that anyone of my junior colleagues is less fit for his post than I am, but only that after 20 years a master should have acquired a stock of experience which enables him to deal more readily with any difficulty that arises in his work.

48,011. I think you went so far as to say that the man of 25 years' experience would be better than the man of 23 years' experience, no matter what their original intellect may have been?—I certainly never intended to say that.

48,012. What I suggest is, that if that theory of the great value of experience is correct, it cannot be very important what the experience of an officer was before his appointment as master?—Yes, because he is training himself.

48,013. But his previous training cannot be a matter of very great importance if experience in the office is the one thing?—I will not say it is the one thing. Previous training is very valuable, no doubt; it is like the training for everything else, and even the boy's education is a training.

48,014. In most professions or occupations, an able man who is properly qualified when he comes in can very soon be as good a man as a less able man who has been there for some time?—But every man is trained for a profession.

48,015. But you have told us that when a person has once become a master, all his previous training and experience counts for very little—the one thing that makes him better than his fellows being his experience as master?—I did not mean to convey that. Just as I should say of a doctor who has to go through a training to fit himself, that training is all-important. When he becomes a doctor he has very little experience, and he is much more competent as a doctor when he has been a doctor 20 years than he is when he is first made one.

48,016. Do not you think there are some doctors straight out of a hospital, who have only just got permission to practise, whom you would rather trust yourself to than some doctors of 70?—I should think there are very few.

48,017. With regard to the third class clerks, are you acquainted with the general Civil Service of the country?—Very little.

48,018. Would you be surprised to hear that one of the principal causes of discontent among Civil servants is the exact proceeding that you suggest with regard to the third class clerks, that is, holding out to them prospects of promotion to a higher rank under exceptional circumstances which they always allege are not fulfilled to anything like the same extent as they were led to believe would be the case?—I did not know that that was so.

48,019. Can you imagine that it would be so?—Yes; it may be a ground for leaving that provision out.

48,020. Is it possible to hold out to anybody expectation of promotion in cases of exceptional merit, without inducing the particular person to believe that he has a good expectation of promotion?—It seems to me that there is a difference between telling a man, "You are going into a third class clerkship, and if you behave yourself and get a certificate of fitness, you will go on to the second and first class," and telling him, "You are going to a clerkship where promotion stops when you get to your full salary, though, with exceptional merit it may be, if the authorities think fit, you will be appointed to the second class."

48,021. Do you think the man himself ever has any doubt as to his possessing exceptional merit?—I think he ought to look at both sides.

48,022. Why cannot your own department, by taking in by competition young men who have had a good education, beginning as third class clerks, train your own second and first class clerk in the same way as other departments do?—I think the reason is that our third class work is quite distinct from the second and first. There is very little legal knowledge required for the third class, though it is better that a man should know the difference between a writ and a summons. When you go to the second or the first class you have, for instance, the drawing up of certificates, which no third class clerk has any experience of

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whatever, and yet it is an extremely important matter that the certificate should be drawn correctly.

48,023. Will not the third class clerk in your office learn anything?—I do not think he would learn anything of second class work or of the work in the class above.

48,024. (*Mr. Philip Snowden.*) Then what use is he as a second class clerk when he is promoted into that grade, if his work is so entirely different, and he has had no previous experience?—Then he has to begin and learn it; and that is a disadvantage, I think.

48,025. (*Mr. Holt.*) Does a second class clerk learn anything that would fit him to become a first class clerk?—I think he does.

48,026. Does a third class clerk learn anything which would fit him to become anything subsequently. Is it a kind of blind alley?—I can hardly say that he does not learn anything. He learns the ways of the office, which is some use to him; but he does not do some of the difficult work which solicitors' clerks who practise before us are acquainted with; and therefore he is not so fit as they are. That is the way I should put it.

48,027. Was not the number of Chancery judges increased from five to six comparatively recently?—It was.

48,028. When?—I am afraid I cannot give you the year.

48,029. Approximately?—I think it was the beginning of the century, 1901, which is when the system of linked judges began.

48,030. When that increase in the number of judges took place, was there an increase in the number of masters?—No. Before that time there were four Chancery judges who were doing chamber work. The fifth judge did nothing but try witness actions always. Then there were four judges with three masters each. When the linked system came into existence and there were six judges, they were divided into three divisions, each with four masters; so there was a reorganisation of the office.

48,031. I only wanted to make quite certain that there was no alteration in the number of masters?—There was no addition to the number of masters.

48,032. You do not know anything as to the necessity of the registrar sitting in court?—I can only say what I have already said, that it has always been supposed that the registrar did very important work in advising the judge on points of practice, and therefore it was important that he should be there.

48,033. How does a new registrar get his experience as to points of practice?—He has learnt it by degrees in rising from the bottom of the office and mixing with the registrars.

48,034. You do not know really from your own knowledge whether it is necessary to have a registrar in court, or not?—No, I could not express any further opinion about it.

48,035. (*Mr. Coward.*) I should like you to contrast the fitness for the appointment to the second or first class: first, by promotion from the third class, and secondly, by the appointment of outsiders from the solicitors' profession, that is to say, solicitors' clerks. Could there be any possible doubt that the latter would be the preferable plan?—I think, not the slightest.

48,036. You must in all offices dealing with the law have people who do work that is of the lowest grade. For instance, you have boys to take out letters, and do that kind of thing, and they might learn nothing. If you have that sort of work in the third class here you cannot raise them up with advantage. You would do much better by getting them from outside, where they have learnt a real amount of the work which they will have to do?—I think so.

48,037. I suppose you would agree that the work in a solicitor's office, where the work is well done, is a very fine tuition?—Very.

48,038. Because they not only learn discipline, but how to work hard; they keep regular hours; they are under control, and they get great business experience. Is that right?—Quite right.

48,039. They learn the elementary procedure in a way which I have heard described as taking it in by

the pores; it is done so that they do not really appreciate that they are doing it?—Yes.

48,040. If you appointed a fellow like that who has had many years' experience in a solicitor's office, if he gets into your office as a first or second class clerk, he would be far fitter for the position than one who has never had that experience?—Far fitter, certainly.

48,041. Can you suggest any reorganisation, or means of reorganisation other than those which we have been discussing, which would improve matters? Is there anything else in the office that would be advantageous, which would lead to improvement of the character of the men, and of the work, and generally the way the work is done?—I do not think I can suggest anything. Are you speaking of the clerks only?

48,042. I am speaking of the clerks?—No. I think if we could get the best solicitors' clerks into our office as second class clerks, we should certainly be doing the very best thing for the public that could be done.

48,043. There is no doubt that it would be of very great advantage, would it not?—I think so.

48,044. Is there any one amongst the masters, or in the office generally under the master's control, who takes control of the workers; that is to say, is there anybody there who knows, for instance, what A B or C D is really doing, and whether he is doing good work in the office?—Each master has his own little staff of four clerks, and they work apart. They may mix in one way, and go and consult one another, but they are quite distinct from the clerks of another master. They have different rooms. Two of my clerks, the second and third class, sit in an outer room next to my room; and the two others sit in rooms on the floor above. There is no actual control of one clerk over another, though they constantly come together; and no doubt my first class clerks would know perfectly well if there was any incompetence in the second or third class clerks.

48,045. Would they report to you?—Yes.

48,046. I suppose you never do have such a complaint?—I have never had such a complaint. My men are extremely good, and I have never had any trouble at all.

48,047. (*Mr. Philip Snowden.*) Who is responsible for the apportionment of the work amongst the various clerks?—I suppose the master is. As a matter of fact, when I first came I saw that a certain arrangement had been made, and I have never altered it. If I were to start again I should make a difference. In regard to my two first class clerks, one takes certain kinds of work and the other takes another kind of work, both work of importance. If I had to start again, or if there was a vacancy, possibly now I should divide my part of the alphabet between the two in equal shares, which would be far better, and you would have a man then doing every kind of work of a first class clerk.

48,048. (*Chairman.*) Each taking a half of all kinds?—Yes.

48,049. (*Mr. Philip Snowden.*) Surely there must be somebody, when certain work requires to be done, to say: "This must be given to A or B, or F or G," and to see that A or B or F or G does it?—That is clearly settled. We have a statement of the work that each clerk does, so that each clerk knows what is his own work and he does it.

48,050. To whom is that statement given?—The statement is in the office and I expect each of the clerks has a copy of it; but there is never any difficulty about that.

48,051. Is it something like this, then—that the work that has to be done in the office is thrown into a lump and each clerk, when he wants something to do, goes and takes a piece of work from that lump?—No, that might become the case if we were so overworked as to have arrears; but we have no arrears. What happens is this: I deal with a summons in the morning, I have a sheet of paper on which I make my notes and signify the result; I say, "Order so and so," putting in the terms of it. That is taken out by a third class clerk and noted in the return of orders made as one more, and then it is taken up to the first class clerk, who endorses the summons. He enters all the evidence on the back of

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the summons and endorses it with the order made. The next morning he brings that to me to sign. With regard to certificates, accounts and inquiries are directed by the judge, a summons to proceed comes into chambers, and when the evidence is filed I read it in the presence of the parties, and I say: "Certify so and so in answer to inquiry 1, and so and so in answer to account 2," and so on all through. At the bottom I say, "Ad-journed for Certificate." Those notes in the same way are taken out, noted for the return, and taken to the clerk who prepares the certificates, and he looks at my notes and at all the affidavits which are left with him, and he draws the certificate. That is done by one of my first class clerks. The one who does the endorsing of the summons is the other first class clerk; each knows his own work.

48,052. That is not what I wanted to get at. Is there no second or first class clerk who is responsible for the supervision of the third class clerks. (*Mr. Matheson.*) The staff is very small in each set of chambers; there are only four clerks in each set of chambers?—That is so. I think I could say that no one is responsible.

48,053. (*Lord Mersey.*) And they do not sit together, and they take different work?—Yes, but the first class clerks are coming down from upstairs all day long to look at notes or papers or things in the outer office, and have some knowledge of what is going on there. If there was anything wrong going on there I should certainly hear of it from the first class clerks.

48,054. If there was any sky-larking going on would you hear of it?—I should hear of it, and, of course, if the men were neglecting their duty and going out all day long, I should hear of it.

48,055. (*Miss Haldane.*) Would you say that the class of men at present in the third class were better than necessary? We have had evidence that a good many were university men?—Yes, most decidedly.

48,056. Better than necessary, if there was no good prospect of promotion?—Yes.

48,057. You say that only under exceptional circumstances ought they to be promoted; but, if it is all mechanical work that they do, how could you determine whether they were or were not capable of doing exceptionally good work?—I am in constant communication with the clerks, so that I should see the work that the clerk was doing, and I should have an opportunity of judging whether he was sharp and specially fit for the work. I think I should know pretty well, and I do not think it would very often happen that I should recommend one.

48,058. You think that there would be an opportunity for him to show that he could do better work than another?—I think so.

48,059. (*Sir John Kempe.*) Would you say that the Chancery work is the most highly technical and complicated of all the different divisions?—Yes, I should say so.

48,060. For that reason it is essential for you to have trained men to begin with?—Yes.

48,061. The same claim is made by all the other divisions. They all say that they want to have solicitors' clerks as a recruiting ground to deal with their work. I dare say you are aware of that?—No; I do not know that I have heard of that before.

48,062. Well, it is so. From the point of view of the present policy of the Civil Service, does not that involve a rather serious question. It means that you propose to exclude the public from any chance of a large number of Civil appointments and confine them to a certain privileged class who have had the opportunity of going through a solicitor's office. A large section of the public is excluded?—Yes; I should say you are confining it to a trained class—to men who, by their training, are more fitted for it.

48,063. Would you accept people who have been trained in other ways, by going through a secondary education course and things of that kind?—I do not think a man who had done that, without going into a solicitor's office, would be qualified in the same degree at all.

48,064. Then, in fact, you would confine it to that particular class of people?—I think so.

48,065. Excluding all the rest of the world?—Yes.

48,066. That is on the assumption that the training cannot be acquired within your own office?—I think so. We have no means of training.

48,067. How many vacancies do you have in a year?—My office staff only consists of four clerks.

48,068. But supposing they were all interchangeable? In the Chancery Division how many new clerks are there in a year?—It is very difficult to say. I suppose there are returns which would show that. It is not knowledge which comes to me direct; the senior master knows more about it. I generally hear if there is a vacancy. There may be one, or perhaps two, appointed in a year.

48,069. (*Chairman.*) Is not the number much less than that? It would appear from the dates that there have been three appointments since 1903?—That is so, according to the returns. I included vacancies owing to promotion.

48,070. (*Sir John Kempe.*) The argument I have heard used by witnesses rather seems to suggest that you would have to be constantly training new men for the work, but if it is not more than one man a year, there should be no difficulty in training one man a year in the office without drawing them from solicitors' clerks. If you have an intelligent man to deal with, should there be any great difficulty in training him in a year to learn the work of the office?—It is not a case of training a man in one great department, but training a man in a particular department of four clerks.

48,071. That might be obviated by making it interchangeable more or less?—But I think it would be very undesirable to change the clerks from one division to another, because they get to know their own cases. For instance, the clerks have thousands of bundles of notes. I make a note in every case, and there might be three or four thousand in a cupboard, and the clerk goes to that cupboard and he picks out the notes when the case comes before me, and puts them before me in the morning when the case is in the list. In that and other ways he gets to know the particular cases, and I think it would be very undesirable to change from one office to another. I also think that a solicitor's office would be the better training ground.

48,072. The better training ground; but the other would not be impossible?—It would not be impossible. He would only have one man with him, and would sit in the outer office, as it is called, and that one man would have to train him.

48,073. There must be some very good reasons for departing from the rule of the Civil Service, you admit?—Yes.

48,074. And it is only because the case is so strong that you wish it departed from?—Yes.

48,075. Do you know anything about the Estate Duty Department of the Inland Revenue?—No, I do not know anything about it.

48,076. I may say that there you have a case, judging from what little I have seen of the Chancery work, where the work is quite as difficult and complicated as in a Chancery office. That office is partly legal and partly financial, and recruited from the outside, and there has never been any difficulty at all in the men learning their work, which is admirably done. It is a larger office than the Chancery, and probably more than one man comes in in a year, but they are trained up, and know their legal and financial work. Is there anything in the training in one office which makes that possible where it is not possible in the other?—Have not the gentlemen who go into that department a legal training?

48,077. No, it is open competition for intermediate class clerks; they have gone in chiefly from public schools?—I have no experience, and I cannot judge. I must take it that it does answer in that department; but I cannot think for a moment that it would be a good thing in our department. It might be done as I said, but the other plan where you get a man with a training is so much better. It is a question of taking a man with training or a man without. If you have got him already trained, you do not want to train him in the office.

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[Continued.]

48,078. On the same principle you would say that the Local Government Board ought to be recruited from the staff of municipal bodies, and, I suppose, the Custom House from shipping clerks, and, perhaps, the Treasury from accountants, and so on for other departments. I do not think you want to bring technical people in when you have a large field for training. You do not want to bring in none but technical people from outside?—I should only say that you want to get the best men you can, and I think the best men you can get are the men who have been trained in that particular branch.

48,079. (*Mr. Shipley.*) On an ordinary day can a master finish his work in his office hours, or does he take work home with him?—I should say, as a rule, he takes work home with him. I constantly take work home with me, and I do it in the early morning.

48,080. (*Mr. Matheson.*) Your contention really with regard to the first and second class clerks is that their work is technical. Is not that what it comes to?—Yes.

48,081. And therefore you are not appointing to an ordinary clerical class?—That is so.

48,082. Is it really necessary for the third class, if their work is so elementary, to require that they should have been in a solicitor's office. Could not they have been drawn from what you may call the ordinary lower clerical class?—I think the training in a solicitor's office would help them in their duties, decidedly.

48,083. No doubt it would, but to require that means that you must take them later?—Yes, they must have, according to my plan, five years in a solicitor's office before they come to us. I think they would be all the better for it.

48,084. Have you had experience of third class clerks who have not been in a solicitor's office?—Yes.

48,085. Would your experience show that there is a real difference between them in usefulness—between the man who has been in a solicitor's office and one who has not?—Yes.

48,086. (*Chairman.*) Is not your difficulty in training men in the third class for the higher classes this: that the third class is the lowest class you have, and there is a certain amount of work of a purely mechanical nature—keeping lists and so forth. Having a small number of third class clerks they are entirely and exclusively employed on that work, and therefore have no opportunity of learning any better work?—Yes, that expresses it exactly.

48,087. If you had a larger number of third class clerks and could give them, as they gain experience, some better work as well as the merely mechanical work, could they not in that case gradually get the training for the better work?—I do not know how we could give them the better work. That would be the difficulty.

48,088. I am assuming that you have a smaller number of higher class clerks and a larger number of third class clerks. In that case, would it not be possible to give the third class clerks gradually, as they gain experience, better work to do?—Those two third class clerks would sit in the outer office together, and would

have no opportunity of learning the work of the men upstairs.

48,089. I see that a difficulty arises from the extreme sub-division of the staff into twelve watertight compartments. Presumably, a change of numbers would have to be made. Do you see any insuperable obstacle to that? That would mean giving to the present second class clerks work done by the first class, and to the two third class clerks between them some of the work done by the second class clerks?—My two first class clerks both do most important work, and they have plenty of it to occupy them, and I should be sorry to give any of their work to a second class clerk.

48,090. Is promotion at present by seniority or by selection?—By seniority, subject to a certificate. Of course, it is a matter for the Lord Chancellor, so I can only imagine what is the rule. If there is a vacancy the Lord Chancellor refers to us, and we have a committee that looks into the antecedents of the man, and, if he is fit, recommends him; but, subject to that, as a rule, seniority governs it.

48,091. It is seniority, subject to fitness?—I think so.

48,092. Are the cases numerous in which a man is not promoted?—No, not numerous—quite the exception.

48,093. As a rule they go up by seniority?—Yes.

48,094. I see the Committee of 1907 recommended that appointments and promotions should be made by selection and not by seniority. Are you in favour of that?—I think selection is certainly better. It is a very difficult thing to decide—at least, for the head of the department. I mean it would be difficult for us to say, from so many candidates, that we think A B is best for the post, passing over a number of seniors.

48,095. The difficulty there again arises from the sub-division into twelve different offices?—I cannot quite say that; but the difficulty you would feel is that it is such a hardship on the other men who are looking for promotion; you want some outside power.

48,096. But in the public interest promotion by selection is to be preferred?—I think so.

48,097. (*Sir John Kempe.*) Would it be possible to pool a certain amount of the third class work. If you had a long room with a number of third class clerks working in it, filling up forms and so on, would it be possible that they could work for the whole office, and if one is busy, some of his work could go to another and so on?—The inconvenience would be this: I have a diary which the third class clerk keeps, and if I want the diary I just ring to the next room, and he brings it in at once. If you had other people dealing with that diary you would not know where it might be at the time you wanted it.

48,098. Each clerk might be responsible for keeping the diary of a particular master, but there is other work which is not of that character?—Much of the work of the third class clerk is closely connected with the work of the master. I have not thought much about it, but I do not think myself that it would do to have one long room in which the work was pooled.

Mr. ROBERT FREDERIC BAYFORD, called and examined.

48,099. (*Chairman.*) You are a barrister?—I am.

48,100. And your practice has been in the Probate and Divorce Division?—Yes.

48,101. You appear here on behalf of the Bar Council?—Yes.

48,102. May we take it that your evidence is endorsed by the Bar Council, or does it represent your personal opinions only?—It represents my personal opinions. I sent my précis in to the Bar Council, but I have received no further communication with regard to it from them.

48,103. You are prepared to speak mainly as regards the work of the Principal Probate Registry?—Yes. That involves, of course, the Probate Registry and the Divorce Registry, which are amalgamated under the term "Principal Probate Registry."

48,104. You have not had much contact, I suppose, with the district registries?—Practically nothing.

48,105. As regards the district registries, you have no special observation to offer?—No. All I can say is that any serious difficulty that arose there would probably involve an application to one of the judges of our division, and such applications are practically unknown. I have known one myself on one occasion—and so far it appears from that that it is done reasonably well.

48,106. As regards the principal registry, in your experience, is the work done satisfactorily?—On the whole, I think, yes.

48,107. Do you consider that the system of appointment of the registrars has been satisfactory as judged by the results?—Yes; I think that both as regards the class of man you get and the way the work is done as a result of it, on the whole it is good. I think possibly there might be some limitation as to the term of appointment.

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[Continued.]

48,108. As to the age to which the appointment should be held?—Yes.

48,109. I see you also suggest a limitation of the period for which the appointment should be held?—Yes, I thought it would be better in all probability to make some period for an appointment with an age limit.

48,110. In most cases an age limit would act practically as a limitation of the period, because I suppose registrars are not appointed as a rule until, say, the age of 40?—That would be so; but it depends upon what length of time you put. Supposing you appointed a man of 40 with a 15 years' appointment, that would only bring him to 55, and I certainly think that most registrars would be well capable of conducting their duties for many years after that.

48,111. Would not an age limit meet the object that you had in view in making that suggestion, without having a limitation of the period of tenure?—Yes, I think perhaps it would.

48,112. Do you think it would be advisable to fix an age limit?—I think it would be advisable to fix an age limit, with the proviso that there should be power in the President in any particular case to extend the time if he thought right.

48,113. A power similar to that which exists in the Civil Service generally at present?—Yes.

48,114. Turning now to the clerks, do you consider that the system of their appointment has worked satisfactorily?—Yes, my principal knowledge with regard to them comes from observation of the work of those clerks who are more immediately attached to the registrars and working in the Contentious Department. Of course, I see a little of some of the work of the other clerks, but not a great deal.

48,115. You see a good deal of the results of the work in certain branches?—Certainly.

48,116. And your impression is generally favourable?—Highly satisfactory. I think the clerks' work throughout is extremely well done.

48,117. Are legal qualifications necessary before appointment in the case of the principal registry?—I should say not.

48,118. Do you think if you get a well educated, intelligent man of a suitable age, he can perfectly well learn the work in the registry itself?—I think so. So far as the legal part of the knowledge that he requires goes, he has ample opportunity of getting what he wants to know in the registry itself and in the work there, and more particularly anybody who is attached to either of the registrars as is his personal clerk, because he is present at all contentious matters which are decided by the registrars, such as summonses, alimony inquiries, and that class of work, and that gives the clerk a very practical knowledge of what is required from the legal point of view.

48,119. The suggestion has been made that open competition might be the preferable method of selection for these appointments. What is your opinion as to that?—I should be very loth to interfere with the present system. I think you get a very good class of man there at the present time under the present system.

48,120. In respect of what qualities do you think the present system works more satisfactorily than open competition?—The President has some information with regard to the persons who are appointed. No doubt he has to rely, to a certain extent, upon the persons bringing forward the particular candidate. The result at the present time is undoubtedly that a very good class of man is appointed. I think you might quite well get persons who could pass an examination who would not possibly have, apart from the mere book learning and an ability to pass the examination, certain qualifications which you can judge of from personal observation of a man.

48,121. You mean that the more personal qualities are not tested so well by examination as by the present system?—Yes, I think that is so.

48,122. On the other hand, is it not probable that education and intellectual qualifications might be better tested by examination?—I do not think you would get any substantial advantage there. The emoluments resulting from an appointment are not particularly large.

48,123. But is there any reason why those emoluments, such as they are, should attract less satisfactory candidates if the door of entrance were examination then are attracted under the present system?—No, possibly not.

48,124. If I understand your view it is that the personal qualities which are tested by personal selection are more important in this case than the qualities which are tested by examination?—I think it is a very important matter in that particular office.

48,125. Why in that particular office?—You have got what is really a school in a sense for persons who are qualifying eventually to be appointed to the higher offices in the principal registry and in the district registries, and I think you want a man who is not only qualified from the point of view of being able to pass an examination, but who is a man who is fit to take a responsible position apart from what he can show by examination. I think you get a much greater insight into that under the present system than you would by open competition where any body could go in, and if they could merely pass an examination you would have to appoint them.

48,126. Do you think the present salaries are suitable?—Yes, taking it all round, except that I do not think the salaries of the clerks, who are the immediate clerks to the registrars, are sufficient. They are persons in a very responsible position; they are in a position which enables them, probably better than any other person in the registry, to qualify for the higher offices, and the amount of work that the registrar is able to get through in the course of a year depends largely upon the way in which his own personal clerk looks after his appointments. That may appear to be a perfectly simple thing, but it is not, because the registrars have a good deal to do and some applications take a long time and some a short time. Unless a man has a certain amount of knowledge of what is capable of being done on a particular application, he is not able to judge what is the right time to give for a particular appointment. Unless you get somebody who has a great deal of knowledge and is capable of learning with regard to what can be done on particular applications, you get either a very great waste of time of the registrar or a waste of time of the litigants who are waiting one after another for their cases to be got on with.

48,127. There are four clerks to registrars?—There are four registrars and four registrars' clerks, but I think there is an additional one, that is the post of principal registrar's clerk, who is in addition to the other four.

48,128. The question of the remuneration of these individuals does not affect the question of the pay of the class as a whole?—No.

48,129. And it might be met either by particular treatment for these posts or by selecting the men for these posts out of a higher class?—Yes. I think they are very important posts.

48,130. On the question of the method of promotion, do you know by what method clerks are selected for promotion at present?—Yes; the promotion from the third class to the second class is principally governed by seniority, secondly by suitability to fill the particular post, and thirdly any special reason with regard to the particular post. The principal thing that governs appointments from the third class to the second class is seniority.

48,131. Does that apply also as regards promotion from the second class to the first class?—No, it does not. The principal thing that applies to any promotion from the second to the first class is the suitability of the man to fill the post vacant. Then seniority, I should say, comes second. Of course there are a great many departments in the registry, and when a vacancy occurs in one of the higher posts in a particular branch the senior second class clerk, who has a knowledge of that particular business, is appointed if he is fit for it.

48,132. Do you consider that system satisfactory, or do you think that selection should be employed to a greater extent?—The result is satisfactory so far as the public is concerned, or rather so far as that portion of the public that I have any knowledge of is concerned, and it is satisfactory so far as the clerks themselves in

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[Continued.]

Somerset House are concerned. I know a good many of them, and I have never heard any real complaints with regard to the question of promotion. The only thing is they say they are not promoted quick enough.

48,133. I suppose it is important that the best men should go to the most important posts?—Yes.

48,134. Does a system which mainly proceeds by seniority secure that result?—I think it does in this case. The men who are chosen to fill the senior posts—a first class clerk or a clerk of a Seat—are men who have special knowledge of the particular branch of the registry in which that particular vacancy is.

48,135. They are chosen by function?—Yes, by function, and by ability to fill the post.

48,136. But as between two or more men who have experience qualifying them to perform the particular function required it goes by seniority and not by merit?—Yes.

48,137. But you are of opinion, nevertheless, that that method gets the best men for the important posts?—I think so.

48,138. Is there not a considerable difference between the value and quality of different men?—No doubt.

48,139. Does a system which sends them up by seniority secure that, as between two men, the better goes to the top?—It is not an inelastic system.

48,140. You mean, if a man is obviously unfitted for promotion, he is not promoted?—That is so.

48,141. Two men may be above that line, and both fitted for promotion, but one may be a much better man than the other?—He might be.

48,142. And if he happens to be the junior, it is the other man who goes up?—That would be so. There might be a case of that sort, but I think you are dealing with very special circumstances, because persons who get to that position have had an equal opportunity of learning the business they have to do there, and it would be a rare thing to find that there was very much difference between the two men. If a man who was a junior was very much more fitted for the post he would be appointed.

48,143. In your own profession, do you find there is very little difference between barristers of 20 years' standing?—I do not think you ought to ask me that.

48,144. Besides promotion in the office itself, clerks from the principal registry are not infrequently appointed to district registries?—Yes.

48,145. Is that a desirable arrangement, do you think?—Admirable. Whenever a vacancy in a district registry occurs, very serious consideration should be given to any application made by anybody who has had substantial experience as a clerk in the principal registry.

48,146. You think that that experience would be the best qualification for the district registrarship?—I think it is a very great qualification for it.

48,147. Besides being given to clerks from the principal registry, those appointments are also given to local practitioners in some cases?—Yes.

48,148. As between the local practitioner and the clerk from the principal registry, which do you consider would normally have the better qualification?—I think the clerk in the principal registry, because he has had intimate knowledge, for a certain number of years, of the actual working of the principal registry, which is on similar lines, of course, to district registries, and he knows, under those circumstances, what to do with regard to anything in the district registry which requires an order or communication from the principal registry.

48,149. In two cases at present the registrars have themselves been district registrars before appointment to the principal registry?—Yes.

48,150. Is that experience a suitable preparation for the office of registrar at the principal registry?—It is no disqualification, certainly; but whether it is of any particular value, I am a little doubtful.

48,151. Questions have been raised as to whether there should be any transfer of work from the principal registry as it exists at present. One suggestion which has been made, is that the taxing work should be transferred to the central taxing office. What is your opinion

as to that suggestion?—I think the whole thing is a special branch, and it would be a pity to take any small portion of it out and try to fit it into some other office.

48,152. You think the taxing work is better kept where it is?—Yes. The reason is partly that taxations arise with regard to wives' costs in any matrimonial proceedings up to the time of setting down the case for trial. The taxing officer who is dealing with that bill at the same time has to fix the security to be given by the husband for the future costs of the wife, and the fixing of that amount requires a certain amount of special knowledge with regard to divorce work. That is only one instance where, I think, it would be much more desirable to have these matters left in the hands of registrars who are always dealing with divorce matters from start to finish, rather than send that little piece of the work out to somebody else to deal with, who perhaps has never had any knowledge of divorce work at all.

48,153. There is the further consideration that the work is done in different buildings?—Yes.

48,154. Are there any other points upon which you think any rearrangement or transfer of the work would be advisable?—No, I do not know that there really is I think, as a whole, the work goes on satisfactorily from the point of view of the litigants.

48,155. And, judging from the results as you see them, do you consider that the organisation of the office is satisfactory and does not require change?—I think so, taking it as a whole. I do not mean to say that there are not some small matters that might not be considered, but the registrars would be much more able to give you information with regard to that than I.

48,156. Have you any suggestions to make as regards the drawing up of orders?—I think the practice which exists at the present time of sometimes referring the minutes of an order to either the solicitors or the counsel engaged in the case before it actually is issued might be extended with advantage.

48,157. Is it the practice in this division for the orders to be drawn up entirely in the office?—Yes.

48,158. We have heard that in the King's Bench Division the orders, as a rule, are drawn up by the solicitors and then brought to the office; whereas in the Chancery Division they are entirely drawn in the office. Would it be possible or advisable to adopt the King's Bench procedure in this division?—I do not think it would be an advantage to do it in every case, because I think that would mean delay.

48,159. The object of adopting it in the King's Bench Division was to save time?—I am rather doubtful whether it would save time.

48,160. Are the orders of a simple or complicated nature as a rule?—A great many of them are simple, but there are a substantial number of orders which are not simple orders—questions as to dealing with variations of marriage settlements, and questions of securing maintenance; and that class of question sometimes involve substantially difficult orders, and it is difficult for anybody to draw the order up who has not an intimate knowledge of the particular facts of the case.

48,161. By whom are they drawn up at present?—Those are drawn up by the registrar or the registrar's clerk.

48,162. By the registrar who has been in court while the case was being heard?—Yes.

48,163. So that he is acquainted with the facts?—Yes; but he has not actually got the papers before him while the case is being discussed, and has to pick it all up from listening, and it is not always easy to draw up an order under those circumstances.

48,164. Then your suggestion is that the system of having the minutes drawn by the parties should be extended?—Yes. I should not like to say that it should be extended to every order, because I think that is quite unnecessary.

48,165. Where the order is simple it is unnecessary?—Yes.

48,166. In simple cases, do you find any delay in getting the order?—No, I do not think so. I have never found any difficulty about getting orders. Several times matters have come up where it has been of great importance to the litigants that the order

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[Continued.]

should be got through at once, and I have never found the least difficulty in an important case of getting it done at once. In fact, on one occasion, I think, it was done within three quarters of an hour of the order being made.

48,167. (*Mr. Matheson.*) I gather from what you say that you think the present third class clerks are of good quality, and that you get the right sort of people?—You get a very good class of men under the present system.

48,168. Apparently, from a study of this list, promotion from that class is very slow. I see that the average time in which third class clerks have been at their present duties is something like eight years. Have you come across any dissatisfaction with that state of things?—That is the only dissatisfaction I have heard—that promotion is not fast enough. It is not a complaint about a particular man being promoted, but that the general class does not move fast enough.

48,169. I notice that the average duration of the third class clerks in the Central Office, in their class at present, is something like four years, while the average in the Probate Registry is something like eight years. Can you explain that at all?—No, I cannot. The two things are quite distinct.

48,170. Do you think, for the work done by the third class clerks, it is necessary to have men of as good a quality as those who are there at present?—Yes.

48,171. Do you think that they are using too good men for that particular work?—That question is a little difficult to answer, and I do not think I can give you any satisfactory answer in regard to it. So far as I can see, the class of man is not too good for the work.

48,172. So far as you have come across them, they seem to be very suitable?—So far as I have come across them, I think the man who is wanted there is there.

48,173. (*Mr. Shipley.*) I want to ask an historical question, if it is in order. I want to find out why Divorce, Probate, and Admiralty all come into one court. There does not seem to be much in common between them?—The Principal Probate Registry was created by the Court of Probate Act of 1857. The Divorce Registry was created by the Matrimonial Causes Act of 1857, and under a special section of that Act the two registries, Divorce and Probate, were amalgamated; that is not the word used in the Act of Parliament, but that is the effect of it. The district registries were also created by the Act of 1857. Subsequently the three Courts, the Probate Court, the Divorce Court and the Admiralty Court, were made into one division of the High Court of Justice under the Judicature Act.

48,174. I suppose barristers in pleading before those courts specialise; you would not get the same man in an Admiralty case as in a Divorce case?—That is so. I think it necessarily is so, because, apart from the work itself, the two judges are always sitting at the same time, and you cannot be in both places at the same time.

48,175. I thought barristers could sometimes?—When you are practising in a special branch you are expected to be there.

48,176. (*Sir John Kempe.*) You represent the Bar Council?—Yes.

48,177. You seem to know all about the Probate Court. Is there any function exercised by the Bar Council that gives them an opportunity of knowing more about the Probate Court than about other courts?—No, I do not think so.

48,178. It is merely knowledge picked up?—I think they could only get it from members of the Bar who practice in the particular division.

48,179. I see the prospects of the clerks in the Probate Registry are much better than in any of the other legal offices; that is to say, they are the only office in which there is a prospect of promotion to the end. They can rise to be registrars?—Yes.

48,180. And yet the scales of salary are the same in all the different offices. Is that quite fair? Does not it point to a rather unnecessarily large expenditure on salaries if the same salaries are given where the

prospects are good as where they are bad. In one case they stop at 400*l.* or 500*l.* a year, and in the other they can go on to become registrars?—I suppose everybody goes into the particular branch knowing what they can rise to, and that may be possibly one of the reasons why it attracts the class of man that is now obtained for the Probate Registry.

48,181. That rather points towards treating the offices separately, so far as pay goes?—Yes.

48,182. There is one point I ought to have asked Mr. Austen Cartmell. I see he says in the précis of his evidence that there does not appear to the Bar Council to be any particular reason for imposing any age limit for retirement, "except the one reason, if it be a "reason, that after a certain age increasing years "make themselves felt." The whole reason why you make a man retire is because increasing age makes itself felt?—Yes.

48,183. And that is a reason for imposing an age limit and not against it?—Yes.

48,184. The Bar Council deliberately put that forward as their considered opinion?—I have not any knowledge of that particular matter.

48,185. (*Miss Haldane.*) I gather that you are quite satisfied with the first class clerk who has risen from the third class?—Yes. One of the registrars at the present time was originally a clerk in the Probate Registry.

48,186. He began as a third class clerk?—He began as a third class clerk, and he became registrar after having been senior registrar's clerk.

48,187. You think you get a sufficiently good class of man coming into the third class to rise to the higher posts?—By means of the present system of selection in the registry, the principal registrar practically has the promotion in his hands, although nominally it is in the hands of the President of the division. The President of the division gets the principal registrar to make suggestions to him with regard to promotion, and the principal registrar, with the other registrars, has every opportunity of judging who is the right man to move up. I think the present system of selection, or the result of it, is that you get the best men put in the places most suited to them.

48,188. As a matter of fact, does promotion go mainly by seniority or otherwise?—From the third to the second class it is mainly by seniority. From the second to the first class it is mainly by the fitness of the man to fill the particular post.

48,189. On the whole, you consider the system of gradation a satisfactory one?—Yes.

48,190. (*Mr. Coward.*) Amongst the clerks of the lower classes you say promotion by seniority always produces the best men. I understood you to say that. Is that what you say?—When I am talking about who are the best men I mean the gradual system of sifting.

48,191. But you do not get the gradual system of sifting?—You have promotion from the third to the second class, and from the second to the first.

48,192. From the third to the second it is a pure question of seniority?—Not absolutely, but principally. If a man is unfitted to be moved up he would not be.

48,193. Did you ever know a case in which a man was unfitted and was not promoted?—I think, if you will ask the senior registrar, you will find there are men who have not been promoted.

48,194. (*Chairman.*) Are not they men who, by the terms of their appointment, are ineligible for promotion?—I am not sure that that applies to all.

48,195. (*Mr. Coward.*) There are over 100 clerks in this department?—Yes.

48,196. You practise at the Probate and Divorce Bar, I think?—Yes.

48,197. May I not take it that your experience results from your attending in court and in your own chambers?—Yes, to a great extent.

48,198. Do you really see many of those 100 clerks who are employed there, to form an opinion as to their merits, and the advantage of their promotion by seniority?—I know a good many of them personally.

48,199. You would know those men who sit in court, I suppose?—And others too.

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Mr. ROBERT FREDERIC BAYFORD.

[Continued.]

48,200. Do you mind telling us how?—They are men I have known for many years. I happened to be at one time in command of a company in the Inns of Court Volunteers, and I had a great many of them in that, so I had a certain amount of intimate knowledge with regard to some of them then.

48,201. Do you judge their qualifications for promotion from what you saw of them in the Inns of Court Volunteers?—I think it gave me a good opportunity of finding out what a man was worth.

48,202. And you think that promotion by seniority is the real test. It is the only place where it is done. At the Bar you do not take seniority as the qualification of genius?—To my mind, the best test of whether it works well is whether the men themselves are satisfied with it there.

48,203. I have nothing more to say if you say that?—Let me add this, if I may, and qualify it to this extent: provided that the work of the particular place is, in fact, done to the satisfaction of the public.

48,204. (*Mr. Graham Wallas.*) With regard to the original appointment of people to the principal probate registry, do you think that the principle of nomination works much better than the principle of open competition would?—Yes. When I say much better, I mean, I think it works very well now, and I do not think you would improve it by examination.

48,205. Have you any intimate acquaintance with the personnel of any Government office to which men are appointed by competitive examination?—No, I do not think so.

48,206. Then your opinion, in that respect, is necessarily *a priori*?—Yes.

48,207. At present, one of the registrars holds the office of senior registrar.—Yes.

48,208. With an extra salary for certain administrative duties with regard to the whole office?—I am not sure about the extra salary.

48,209. It is so, according to the statement we have before us. In other departments the man who is the administrative chief of the department is selected, and not appointed purely by seniority. Do you think any harm would result in the department if that principle were adopted here?—No, I do not think so.

48,210. Do you think it would be a good thing if the chief of the office, instead of being merely the oldest registrar, were the registrar selected because of his capabilities?—I do not think you would get any advantage out of that. Of course, there might be a particular case where it would be desirable to have a particular man as senior registrar, but I cannot call to mind any particular quality which would qualify one registrar more than another for the position of senior registrar.

48,211. Then, as far as your experience goes, the man who has occupied the post of senior registrar has been always the man best fitted to hold it? (*Lord Mersey.*) I do not know how on earth that question can be answered. It seems to me an impossible question. Do you know the qualifications for the post of senior registrar, of all the people in the office? If you do not, I do not see how you can make the comparison. (*Mr. Graham Wallas.*) Do you know enough about the organisation of the office to give us any opinion as to whether the office is economically organised from the point of view of there not being too many people for the work?—No, I do not.

48,212. A certain number of persons interested in wills pay personal visits to the office?—Yes, to the Personal Application Department.

48,213. And, of course, of their fortunes you would know nothing?—A very little.

48,214. You do not know, for instance, whether they are habitually kept waiting for a long time?—No, I cannot answer that. I have known one or two people who have gone to the Personal Application Department for the purpose of proving a will and have done so, and so far as they are concerned, in my experience there has been no difficulty.

48,215. The system of nomination works by some particular candidate being recommended to the post?—Yes.

48,216. There is no general notification of such a vacancy—no public notification?—No.

48,217. So that the first thing that happens is that either the future candidate, or somebody else, must have private knowledge of the existence of a vacancy?—Yes, he must obtain the knowledge privately.

48,218. Then he must get somebody to recommend him who is likely to have influence with the person appointing?—Yes.

48,219. Have you ever been concerned in recommending anybody to one of those posts?—Never.

48,220. You therefore do not know what steps have to be taken?—No, I cannot say I do know.

(*Lord Mersey.*) But you can guess, I suppose.

48,221. (*Mr. Boutwood.*) When you were answering the Chairman's question as to whether the work of the Probate Registry was done efficiently you said yes, but you put in front of it "on the whole." Was that "on the whole" a reservation?—No, I did not intend it as a reservation, but I intended it to apply as an observation with regard to the whole of the work. I do not mean to say there are not particular things, possibly little minor matters, that cannot every now and then be done, perhaps, a little better than they are. It is not absolutely perfect in everything. I do not wish to say that, but taking it on the whole I think the work is extremely well done.

48,222. Going back to this question of seniority I am not quite certain that I followed your presentation of the case, and perhaps you will tell me if I have got hold of the wrong end of the story. This is the impression it gave me: Where you have the higher sort of administrative and legal work, somewhat exceptional intellectual and moral qualities are of first importance, and anything approaching to a rigid rule of seniority would be absurd, and you have what is called promotion by merit, quite normally. But, on the other hand, in a place like the Probate Registry—and here again I may be wrong, and you will correct me—you have not anything of that kind, and the work does not require qualities of that sort; a man has to deal with forms and practice and precedents?—That is certainly so with regard to the lower branches, but not when you get to the higher branches.

48,223. I am speaking of the lower branches; I am not thinking of the registrars. A man has to deal with forms and practice and precedents, and has to know them very accurately, and use them accurately; but it requires what you may call the average sort of intelligence and character, and beyond that average nothing makes very much difference. In the sense in which merit may be shewn in the higher kind of work, there is not much opportunity for merit, and so, in that rather narrow kind of specialisation seniority is as natural as it should be exceptional in the other. Was that your point of view?—Yes.

Mr. THOMAS JAMES WORLEY, called and examined.

48,224. (*Chairman.*) You are president of the Solicitors' Managing Clerks Association?—I am.

48,225. That association was formed to protect and advance the interests of solicitors' managing clerks?—It was.

48,226. The members of that association are either managing clerks, or clerks who have been continuously employed in solicitors' offices for a certain period?—They are all managing clerks, and they are mostly unadmitted men.

48,227. Can you tell me exactly what a managing clerk is?—A managing clerk is a man who has the

conduct of the business in a solicitor's office, subject to some supervision on the part of his principal, chiefly in matters of policy and expediency, as distinct from details.

48,228. Is there a clear line drawn between managing clerks and the other clerks in a solicitor's office. I mean, at a certain point of his career, is a man appointed definitely to be a managing clerk?—If he has remained in the same office, as I have, for many years, it might be difficult to put one's finger on the precise period when he did become a managing clerk. But if a man obtains employment in a solicitor's office as

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[Continued.]

managing clerk, then his position, as such, is well defined.

48,229. (*Lord Mersey.*) Would not you say that there is a managing clerk in every solicitor's office?—No, not in small offices.

48,230. There are some solicitors who do not employ more than a couple of clerks, or perhaps not even two?—Yes.

48,231. Has that solicitor a managing clerk?—Not unless he employs a man who is capable of conducting his business.

48,232. (*Chairman.*) In a big solicitor's office, is there one managing clerk in each branch?—Yes.

48,233. Is there ever more than one managing clerk in a branch?—My experience of large offices is not very great, but I should say there might easily be more than one managing clerk in each branch.

48,234. If the business in a branch was very large, a solicitor might employ two managing clerks in each branch?—I think so.

48,235. (*Lord Mersey.*) Take Messrs. Ashurst, Morris and Co., have not they several managing clerks?—They have.

48,236. They have one in their bankruptcy department, for instance?—I should say they have. (*Mr. Coward.*) Certainly they would have a managing clerk in each one of the departments, but I do not think you would ever see more than one managing clerk in each department.

48,237. (*Lord Mersey.*) But if there are many departments, then there are several managing clerks?—Yes.

48,238. (*Chairman.*) How many members have you in your association?—About 140.

48,239. Is that a large proportion of the whole body of solicitors' managing clerks?—No.

48,240-245. Can you estimate what the total number would be?—I cannot.

48,246. Your association cannot be said to be a representative one?—It is not representative in regard to numbers, but I submit it is representative in regard to the character of the men who are members of it.

48,247-251. What exactly do you mean by that?—I mean that our members are representative of solicitors' managing clerks as a whole in regard to their capabilities, their terms of service and general experience in a solicitor's office.

48,252. The council of your association consists of managing clerks who have had large experience in one branch or another of the Supreme Court?—That is so.

48,253. What has been your own experience?—My experience has been, that I have been managing clerk to Messrs. Minchin, Garrett and Co., solicitors, or their predecessors, for about 15 years, and I have been in their service since the year 1886.

48,254. In which branches has your own work lain?—My work has been the general work in a solicitor's office without making a speciality of any branch, except, perhaps, that I may lay claim to having done more conveyancing and Chancery work than any other.

48,255. Then you have had experience in the King's Bench offices as well as in the Chancery offices?—Some experience, but not very great.

48,256. You have had more experience in Chancery?—Yes.

48,257. You wish to make some representations to the Commission on the subject of the method of appointment of clerks in the legal offices? Will you explain, generally, what your views are on that point?—The subject of appointments in the various legal offices has from time to time been considered by the council of the association, and in the years 1900, 1906, and 1909 petitions were presented to the Lord Chancellor on that subject. The last petition pointed out in effect that the efficient transaction of the business in the chambers and offices of the Supreme Court, the Land Registry, and other legal offices depends to a large extent upon the ability of the clerks in such chambers and offices and their technical knowledge of law and practice, and that, unless such knowledge has been acquired before their appointment or promotion,

difficulty, delay, and inconvenience is caused to practitioners, as well as delay and expense to the public. On the 10th June 1909 Mr. A. Crane, the then president of the association, gave evidence before the Royal Commission on the Land Transfer Acts in support of the contention, which has been unanimously and continuously advanced by the association, that appointments to the legal offices should be thrown open to qualified and experienced solicitors' managing clerks. A great deal of the practical work which is attended to in chambers and legal offices cannot be learned from text books, but must be acquired by actual experience and practice.

48,258. Then your suggestion is, that for the clerkships in the legal departments previous experience as a solicitors' managing clerk is necessary?—I do submit that.

48,259. Does that suggestion apply to all the offices equally?—Yes, speaking broadly, it does.

48,260. Would you apply it to the King's Bench Offices—to the Central Office—as well as to the Chancery Office?—I would.

48,261. Would you apply it also to the Principal Probate Registry?—Yes, I would.

48,262. We have had it in evidence from a witness this afternoon, who was acquainted with the work in the Probate Registry, that previous legal experience and knowledge was not in his opinion necessary for the clerks appointed to the Probate Registry, and that they could learn their work perfectly well in the registry. What do you say to that?—I would say that in any legal office a man who comes to the office with a practical knowledge of law and practice is likely to fulfil the duties of that office to the greater satisfaction of his immediate principals and the public than a man who has not had practical experience of those matters in a solicitor's office.

48,263. Are you familiar with the work done in the Principal Probate Registry?—I cannot profess to be closely acquainted with that work. I would prefer some one who is a specialist in that work to express an opinion.

48,264. But you are familiar with the work of the Central Office of the Supreme Court?—I think I may claim to be, but as I have already pointed out, I have not the same experience of the Central Office work as I have of the Chancery work.

48,265. Do you consider that the work of a third class clerk in the Central Office is work that is difficult to learn?—Not difficult to learn, I would say, but much more easily learnt if one had knowledge of law and practice.

48,266. Taking the Filing Department, you are acquainted with the work which is done there?—Yes.

48,267. It chiefly consists of the reception and filing of affidavits?—Yes.

48,268. How long would it take an intelligent man with no previous legal experience to learn the work that a third class clerk has to do in that department?—I should think in six months he would have acquired practical knowledge.

48,269. Do not you think he could learn it in a week?—I should not think so.

48,270. What is the difficulty that he could not master in a week?—There must be a great number of documents filed which are separately filed, or which require to be specially dealt with, which he could only know of by practical experience.

48,271. He has no concern, has he, with the substance of the affidavit or the matter which it contains?—Subject to knowing which was Common Law or which was Chancery—that is the only distinction for the moment which occurs to me.

48,272. That would be apparent from the heading of the document?—Yes.

48,273. It would not take very long to learn that?—No, not as regards the class of affidavit.

48,274. Would five minutes be enough in which to learn that?—Yes, it would.

48,275. Would it not be true to say, generally, that the work of the Central Office consists to a large extent of work which is simple in character, and which does

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[Continued.]

not require any legal experience or knowledge to perform it satisfactorily?—That is so.*

48,276. There is also, no doubt, some of the more important work which does require some knowledge?—Yes, and it is with regard to that work that I wish to make representations to the Commission.

48,277. Is it your suggestion that the higher classes should be open to the direct appointment of solicitors' managing clerks?—It is. I should like to say here that the association, of which I have the honour to be president, contends that the duties of the clerks in the chambers and the offices of the courts, the Land Registry, Public Trustee, etc. (and particularly of the first and second class clerks in the Chancery Division), are such as to necessitate a general knowledge of law and an intimate acquaintance with practice and procedure, which can only be acquired by those who have had practical experience in the management and conduct of proceedings and legal business in solicitors' offices, who are cognisant with the many questions which arise from day to day, and that therefore the applicants for these clerkships should, as a condition of their appointment, be able to prove their practical training and experience in the particular business which they will have to attend to if appointed.

48,278. You speak there particularly of the Chancery Division. In that division the work is of a more technical and difficult character than in the Common Law Offices?—Yes, but I also include the Land Registry, and, if I may, the Public Trustee—I am not quite certain if I am in order in referring to the Public Trustee—and the Taxing Office.

48,279. Your suggestions apply more particularly to those offices where the work is of a more complicated, technical, and difficult character?—Yes.

48,280. At present the practice is to make appointments almost exclusively to the third class and to fill the higher classes from the third class?—I understand that that is so, and my source of knowledge is a memorandum which is headed, "Clerkships, Royal Courts of Justice. For the information of persons 'applying to the Lord Chancellor.'" May I hand it in (*handing in the same*). I would call attention, if I may, to the fact that, although that is dated January 1902, I was informed at the House of Lords on the 25th February that the conditions stated in such memorandum still hold good.

48,281. This memorandum contains the statement that, except in certain cases, all appointments are made in the first instance to the third class?—Yes. It also states among other things that the clerks in the Chancery Division are appointed by the Lord Chancellor, and clerks in the Central Office are appointed by the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls in rotation. It is also stated in the memorandum that, "any person desiring to 'apply to the Lord Chancellor for a clerkship in his 'Lordship's gift should address his Lordship's private 'Secretary'; that, 'should the Lord Chancellor 'approve the name of an applicant it is noted,' and that 'no promise of a nomination can be made as the 'number of well accredited applicants is very large.'" I would like to point out in connection with my representation of solicitors' managing clerks that the salary of a third class clerk, according to that memorandum, commences at 100*l.* and rises to 200*l.*

48,282. Then your suggestion is that that practice or rule of appointing always to the third class in the first instance should not be maintained, but that appointments should be made direct to the second or first class, and that solicitors' managing clerks should be specially considered for such appointments?—That is my submission.

48,283. At what age do you suggest that those appointments would most suitably be made?—I had intended to suggest, if given the opportunity, a maximum age limit of 45 years; but, on consideration, I would suggest 50 years, considering that the length of

experience of a managing clerk renders his service additionally valuable. If it should be considered that such a high age limit as 50 years would work unfairly in regard to the pension system, then perhaps it could be arranged that all men appointed over a certain age should agree, on their appointment, either to reduce their claim to a pension or, perhaps, not to claim pension. I do not know the working of the pension system, and therefore I merely offer that as a tentative suggestion in case it was felt that by suggesting a high age limit unfairness would result with regard to the pension system.

48,284. Without going into the details of the pension system, you are, no doubt, aware that the grant of the pension depends on the number of years' service?—I understand that that is the case.

48,285. So if a man is appointed at a rather advanced age, the number of years he can serve would be comparatively few, and the pension he could earn would be small?—I understand so.

48,286. From that point of view, the pension system would not work satisfactorily with a system of appointments at a rather advanced age?—No.

48,287. But you think that the experience that a solicitor's clerk acquires would be so much more valuable at the age of 50 than, say, at the age of 35, that it is desirable to have men at the higher age?—I do most strongly submit that. It is between the ages of 35 and 50 that a solicitor's managing clerk enters upon the more responsible duties. He has by that time wider experience, and his principals rely upon him more.

48,288. Do you consider that the salary of the second class would be attractive to men of that standing as managing clerks? The salary is 250*l.* rising by 15*l.* a year to 400*l.*, with a prospect of promotion to the first class, the salary of which is from 500*l.* to 600*l.*?—Speaking for myself, I do consider that that would be, to a certain extent, attractive. The fixity of tenure, subject to good conduct and ability, would be such as to induce a man to take a somewhat smaller salary than he might be disposed to take in private employment.

48,289. (*Lord Mersey.*) And the prospect of a pension?—And the prospect of a pension, if that could be arranged.

48,290. (*Chairman.*) Do managing clerks in private solicitors' employment generally receive pensions when they retire?—I have heard of cases. I should not think that that is usual.

48,291. In your experience, it would be rather the exception than the rule?—It would.

48,292. Is there any voluntary pension system or society amongst solicitors' clerks?—There is a society called The United Law Clerks' Society, which has a superannuation fund.

48,293. Do you belong to that fund?—I do not. You cannot join that society when you are more than 40 years of age.

48,294. It did not occur to you to join it before you were 40 years of age?—No.

48,295. Do many solicitors' clerks belong to it?—I believe a great number, but I do not know the details.

48,296. (*Mr. Holt.*) Your suggestion is, that in the legal offices, and particularly in the Chancery offices, solicitors' managing clerks who have had experience in that branch of the law should be considered eligible, and should be appointed to the second class, and possibly even to the first class, of clerks. Do you suggest that that should be the exclusive source of recruitment for the higher classes, or would you have concurrent promotion from the third class?—That is a difficult question for me to answer. I would say that solicitors' managing clerks, as a class, by reason of their training and their experience in conducting matters which are dealt with in chambers and offices of the Supreme Court, Land Registry, Public Trustee, Taxing Office, etc., are peculiarly fitted to fill the posts of clerks in such chambers and offices, and that those posts would be more adequately filled by solicitors' managing clerks. If it were considered desirable that third class clerks should have the opportunity of promotion to the second class, then I would respectfully submit that, as a condi-

* I was under the impression that the question referred to the Filing Department. The Central Office consists of various departments, in some of which important work is transacted, which requires a knowledge of Law and Practice.—T. J. W.

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[Continued.]

tion of such promotion, the candidate should be able to satisfy the judge or chief official that he is fully qualified to perform the duties of a second class clerk. I refer to the judge or other official, because I understand that in past years it was the custom of judges to appoint their clerks from among solicitors' managing clerks, but that that custom has not been followed lately and the claims of solicitors' managing clerks have been ignored. I do submit that a solicitor's managing clerk, in nine cases out of ten, would be more fitted to fill the duties of a first or second class clerk than a man promoted from the third class, because he would have had that previous practical knowledge of which I have spoken. In making that statement I wish it to be quite clearly understood that I do not make any reflection at all on the gentlemen who at present hold the appointments. I am rather addressing myself to the upholding of the principle that the men best fitted to fill these posts are those whose business it is to appear in them and conduct the matters there dealt with, and those men are solicitors' managing clerks.

48,297. Have you in practice found any want of efficiency on the part of the first and second class clerks appointed under the present system?—I cannot say I personally have. All I say is, that I personally believe that solicitors' managing clerks would be able to fulfil these duties even more adequately than the gentlemen appointed under the present system.

48,298. In fact the present men are efficient, but if they had been solicitors' managing clerks they would have been still more efficient. That is what it comes to?—If I may so put it.

48,299. (*Mr. Graham Wallas.*) You say that solicitors' managing clerks should not be compelled to

obtain a Civil Service certificate if they satisfy a master, registrar, or other chief official that they possess the necessary technical knowledge. You know the existing conditions under which certificates are granted to clerks in Government offices?—I do not know the conditions, but I understand that a Civil Service test is imposed.

48,300. There is a very elementary examination. Do you desire that that should be done away with?—Yes, I do; not because of the difficulty or simplicity of the examination, but because I say that that is not a test of the capability of a man to fulfil the duties for which he is appointed.

48,301. There is a medical examination. Do you desire to retain that?—It is a matter I have not thought about, but I cannot see any reason why the medical examination should be retained.

48,302. There is an inquiry into character. Would you retain that?—Certainly. May I add this: I would, on behalf of the solicitors' managing clerks, respectfully submit that as it has become a recognised custom for barristers to be appointed judges and for solicitors to be appointed masters, solicitors' clerks should receive specially favourable consideration in the appointment of clerks to masters, including taxing masters, more especially as they are, it is submitted, more competent than others to fill such clerkships and also the various other clerkships which from time to time fall vacant in the Supreme Court, the Land Registry, Public Trustee, and other departments. At present solicitors' clerks after a period of intelligent and arduous service find themselves without any prospect of bettering their position, though possessed of the necessary qualifications.

ONE HUNDRED AND NINETEENTH DAY.

Wednesday, 10th March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Mr. E. W. H. MILLAR (*Secretary*).

Master HENRY STUDDY THEOBALD, K.C. (Senior Master in Lunacy), called and examined.

Mr. RICHARD RUSSELL PRICHARD, chief clerk, was in attendance.

48,303. (*Chairman.*) Mr. Theobald, you are Senior Master in Lunacy?—I am.

48,304. How long have you held that post?—Since 1907.

48,305. And before that you were a barrister?—Yes, I was at the Bar—the Chancery Bar.

48,306. You have been good enough to give us a précis of your evidence, in which you deal first with the history of the Lunacy Office?—Yes.

48,307. I think it will be convenient if the first part of your statement is put upon the notes as it stands, as giving a history of the Lunacy Department in the past?—If you please.

BRIEF HISTORY OF LUNACY OFFICE.

History up to 1845.

The care and custody of the persons and estates of lunatics is a prerogative of the Crown. After the abolition of the Court of Wards in the reign of Charles II. the prerogative was exercised through the Lord Chan-

cellor. This he did, not by virtue of his office, but the care and commitment of the persons and estates of lunatics was entrusted to him by Letters Patent under the Sign Manual. In course of time it became customary to include in the Commission the Master of the Rolls and the Lords Justices, and they and the Lord Chancellor now perform the duties of what the Lunacy Act 1890 calls the "Judge in Lunacy."

The jurisdiction over lunatics committed to the Lord Chancellor was exercised by him in his Court of Chancery. The administrative duties were carried out by the Chancery officials, and the Chancery procedure was applied. Before 1845 the principal officers of the Court of Chancery were masters in ordinary in Chancery, who were barristers.

The preliminary to the jurisdiction of the Crown over lunatics was an inquisition before a jury establishing the lunacy. These inquisitions were held by Commissioners specially appointed for the purpose in each case, who had to be paid special fees. In 1842, in order to diminish the expense of these inquisitions, an Act was passed constituting two "Commissioners of Lunatics" to hold inquisitions.

10 March 1915.] Master HENRY STUDDY THEOBALD, K.C. (Mr. RICHARD RUSSELL PRICHARD was in attendance.)

[Continued.]

Creation of Masters in Lunacy, 8 and 9 Vict. c. 100.

In 1845, in the time of Lord Lyndhurst, the union of Lunacy with Chancery was found unsatisfactory. The administration of Lunacy was transferred from Chancery to the two "Commissioners of Lunatics," who now became Masters in Lunacy.

The masters in Chancery were abolished a long time ago, and were succeeded by chief clerks with a salary of 1,500*l.* a year, who were always solicitors and not barristers, and those chief clerks are now known as masters in Chancery. But the masters in Lunacy have remained unaltered in title, qualifications, and salary (2,000*l.* a year) ever since, though their duties have greatly altered.

Rules in Lunacy, 1883.

The Chancery practice was entirely reformed under the Judicature Acts, the first of which was passed in 1873. But Lunacy remained unreformed until the year 1883, when Lord Selborne made new rules bringing the Lunacy practice into accordance with the reformed Chancery practice. This was a great improvement, but much more extensive reforms were desirable, which have not to this day been made.

Lunacy Burdened with Chancery Procedure.

When Lunacy was separated from Chancery it took with it the Chancery traditions. Chancery practice was suited for litigation between parties. It settled and affected rights which required a strict legal procedure. Lunacy is protective, paternal, administrative. It does not affect rights or decide questions between parties. There are no parties except the lunatic. But Lunacy, by adopting the Chancery practice, adopted the forms of litigation without its substance, except the substantial costs of Chancery procedure. A good deal has been done to mitigate this evil, but much remains to be done.

Position of Masters before 1891.

Before 1891 the masters in Lunacy stood to the judge in Lunacy very much in the same position in which the old masters in ordinary in Chancery stood to the Lord Chancellor or the present masters in Chancery stand to the Chancery judges. The masters in Lunacy had no power to make orders. They prepared reports based upon statements left by the solicitor and founded upon affidavits. These reports contained consequential directions and were laid before the judge, who made orders upon them. The masters did the clerical work of the office with the assistance of clerks. But they did not take the accounts, which were done by the chief clerk. They also held inquisitions, which involved a considerable amount of travelling all over England.

Decay of Inquisitions, Growth of Jurisdiction over Lunatics not so found by Inquisition.

Before 1890 nearly all the cases in the Masters' Office were cases of lunatics so found by inquisition. An Act of 1862 gave the judge in Lunacy powers of administration without inquisition in cases where the property was under 2,000*l.* or the income under 100*l.* a year, but the Act was not much used. An Act of 1889, repealed and re-enacted by the Consolidation Act of 1890, gave the judge in Lunacy powers of administration over the property of persons who, without being insane, were from old age and illness unable to manage their affairs. The power to hold inquisitions has not been taken away, but the result of the legislation of 1889 was in great measure to supersede it, inasmuch as the judge has, with some exceptions, all the powers in the case of a lunatic not so found which he has in that of a lunatic so found by inquisition. Inquisitions have in consequence greatly diminished. In the year 1914 only three inquisitions were held, and the average for the last 10 years has been 12. In the year 1890 there were 1,209 lunatics so found by inquisition, and no others under the jurisdiction of the judge in Lunacy. At the end of the year 1914 there were 436 lunatics so found by inquisition, and 4,527 lunatics not so found by inquisition under that jurisdiction.

Conversion of Masters into Judges in Lunacy.

Until 1891 the masters in Lunacy were superior clerks. They ascertained facts and prepared certificates. They settled orders drafted by their clerks, but all orders were made by the judge. The Lunacy Act 1891 (Sec. 27) made the jurisdiction of the judge in Lunacy as regards administration and management exercisable by the masters subject to appeal to the judge. Since the passing of that section the masters have, in effect, become the "Judge in Lunacy." The original jurisdiction of the judge remains, but it is hardly ever exercised, and the whole administrative work is now performed by the masters. Appeals to the judge are not very frequent, since the matters dealt with are mostly matters of discretion. During the year 1914 there were four appeals.

48,308. That takes the history of the department up to the year 1890?—Yes.

48,309. Since that time, have there been various proposals for reform of the existing arrangements?—Yes; there have been several.

48,310. It has been suggested that the Lunacy Department should be absorbed in the Chancery Division?—Yes; that was in the time of Lord Loreburn, or rather before that. I think there was a Commission that sat on the Feeble Minded which went into that question, and recommended that Lunacy and Chancery should be amalgamated.

48,311. Their recommendation was, I think, that the administrative part of the work done by the Lunacy masters should be transferred to the Chancery Division?—Yes.

48,312. And that the Chancery visitors should be fused with the Lunacy Commission as it was then called, the Board of Control as it is now called?—That is so.

48,313. Did the Lord Chancellor after that appoint a committee to consider the question further?—Yes; he appointed a committee, of which the present Master of the Rolls was chairman. The Master of the Rolls had been the principal witness before the Parliamentary Commission, and had advocated the transfer of Lunacy to Chancery; but when he came to look into it with his own committee he arrived at a directly opposite conclusion.

48,314. That committee recommended that the transfer to Chancery should not take place?—Yes.

48,315. And the report of that committee has been considered hitherto as conclusive on that point?—I think so, at any rate for the present.

48,316. In your opinion, is it conclusive?—Yes, I think it would be a great misfortune if the two departments were amalgamated. Lunacy is now suffering from the old union, and what you want to do is, not to unite them, but to separate them as much as you can, to free Lunacy from the old traditions of Chancery litigation, and so on, and Chancery practice, which is a very expensive procedure. You want to get as cheap a procedure as you can.

48,317. It is also the case, is it not, that the Lunacy Act of 1890 contained a section giving power to the Lord Chancellor to rearrange the Lunacy Departments?—Yes, to amalgamate the three departments of the Visitors, the Masters, and the Lunacy Commissioners, as they were then.

48,318. Or to amalgamate either the masters or the visitors with the Lunacy Commissioners?—Yes.

48,319. Have proposals ever been made for exercising that power?—Yes; Lord Loreburn had a scheme prepared to unite the three departments, but it came to nothing, because, on a critical examination of the section, some doubt was felt as to whether the Lord Chancellor had full power to do what he wanted.

48,320. (Lord Mersey.) Can you tell me whether the scheme was Lord Loreburn's or Sir Kenneth Muir Mackenzie's scheme?—Well, perhaps it was the scheme of both, I should say. I think they were entirely in accord about it, so far as I remember. I saw the Lord Chancellor frequently upon it, and he was very much in favour of the scheme. It originated, I think, in all probability, with Sir Kenneth Muir Mackenzie; he

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probably first put it forward; but Lord Loreburn was quite in sympathy with it.

48,321. (*Chairman.*) Was the scheme you are speaking of formulated before or after the Report of the Commission on the Feeble Minded?—It was afterwards, I think.

48,322. There was also more recently legislation on the subject?—Yes; the Mental Deficiency Act, you mean.

48,323. The Act of 1913?—Yes.

48,324. That Act, when originally introduced in 1912, contained a clause providing for the amalgamation of the departments?—I do not know that. I never saw that Bill, so I cannot say what it contained. I did not hear that either; it may be the fact all the same.

48,325. The Bill introduced in 1913 and passed did not contain that clause?—No; I believe not.

48,326. We may take it that Parliament, having before them the Report of the Commission of 1908, and having been seised of the question by the clause in the Bill of 1912, passed legislation in 1913 without effecting this amalgamation?—Yes; that is so.

48,327. So that we may consider it as a question which has been decided by Parliament very recently?—Yes; I suppose that is so. I do not know whether the question of amalgamation was ever considered by Parliament separately and apart as an independent point; it may have been.

48,328. At any rate Parliament legislated on the subject and did not deal with the point?—Yes, that is so. I think that is the situation.

48,329. I think it may be convenient to the Commission at this point to get some information from you as to the exact scope of the operations of the different bodies we have been mentioning. Will you tell us briefly what are the functions of the three bodies, and how they differ?—If I may take the masters first, their duty is to administer the estates of persons of unsound mind, I mean by that the property; their duty is to deal with property, not primarily with persons at all.

48,330. Do all lunatics with property come under the review of the masters?—No, only those who are brought under the jurisdiction of the masters by application. There must be very large numbers of lunatics all over the country whose property is administered otherwise.

48,331. Supposing that the Board of Control in the course of the execution of their duty find that a certain lunatic has property which is not being properly administered, do they bring that case to your notice?—No, they would bring it to the notice of the Lord Chancellor; they send in a letter to the Lord Chancellor saying that, in their opinion, such and such property is not being properly administered, and he then sends the letter to us, and upon it action is taken and a receiver is appointed. But of course those cases are very rare, because the Board of Control have no power of inquiry or investigation. Things may come to their notice, but ordinarily they do not. It is very rarely indeed that it happens—perhaps there may be one or two cases in the course of a year.

48,332. To what do the operations of the Board of Control relate?—They relate to visiting asylums and seeing to the personal care of the patients. They have nothing to do with property at all, and know nothing about property as a rule.

48,333. Is the number of lunatics with property a small proportion of the whole?—Well, of course that is quite unknown; you cannot say how many have property. I believe there are 133,000 lunatics, and in our office we have 5,000; but it is impossible to suppose that there must not be a very much larger number with property; you cannot think that 5,000 lunatics are all the lunatics that possess property in England.

48,334. 5,000 is the number that is under the care of the masters?—They are dealt with by us; that includes lunatics so found by inquisition and lunatics not so found by inquisition; but there must, I should think, be a large number with property, who never come under our jurisdiction at all. Very often it is possible to administer the estate of a lunatic through trustees,

as he may be only a life tenant, and he may have property of that sort.

48,335. (*Mr. Coward.*) You get a committee appointed under the Act?—A committee is appointed in case of an inquisition. You must first have an inquisition, and then, when you have got an inquisition, you appoint a committee.

48,336. (*Chairman.*) You have mentioned lunatics so found by inquisition. That is the old form of proceeding for finding a person to be a lunatic, I think?—Yes.

48,337. Is the use of that method practically dying out now?—Yes, it has very much died out. In 1890, I think, there were a few over 1,200 cases of lunatics so found by inquisition; now there are 430, I think, in round figures; so that they have very greatly diminished, and I believe during last year there were only three inquisitions held.

48,338. That form of inquiry is dying a natural death?—Yes, I think it is.

48,339. Then what is the other method of finding a person to be a lunatic?—So far as the masters are concerned, the lunacy has to be proved before them by medical evidence. What happens as a rule is this: a relative presents a petition to a justice of the peace for a reception order, as it is called, that is to say, an order to take care of the lunatic, to place him under care and treatment, and that petition is supported by two medical certificates. A justice of the peace then considers the matter, and makes an order or not as he thinks fit; that is called a reception order. The masters have nothing to do with that. Upon that reception order the lunatic is put under care, he goes to an asylum, or a licensed house, or a hospital, or he may be placed as a single patient. Then if he has property a summons is taken out before the masters to apply that property to the maintenance of the patient, and in order to get an order from the master you have to satisfy him that the lunatic is a lunatic.

48,340. Would the certificate of a justice of the peace placing a patient under control be sufficient evidence for the master?—It is not generally accepted alone as enough; we generally require medical evidence as well, generally the affidavit of a doctor.

48,341. (*Lord Mersey.*) I understood you to say that the certificate of a justice of the peace was based upon medical evidence?—An order made by a justice of the peace is enough to place the lunatic under care and treatment.

48,342. That order is not made except upon medical evidence?—No, on the certificates of two medical men.

48,343. Then do the masters require other medical evidence?—They generally require one affidavit to prove that the person is actually lunatic at the time. There may be a question of dates; you do not get this immediately, and we generally require a medical affidavit.

48,344. (*Mr. Boutwood.*) An independent one, or will one of the two suffice?—It is generally an independent one.

48,345. (*Chairman.*) Besides those two cases, lunatics so found by inquisition, and other lunatics whose property is brought under the care of the masters as the result of an application, have you also the care of the property of persons who are not lunatics, but who through age or infirmity are unable to attend to their affairs?—Yes; that was introduced by the Act of 1889, by a special clause introduced to enable that to be done.

48,346. Do those three classes cover the whole of the persons who come under your care?—Yes.

48,347. What are the relative numbers of those classes? You told us the number of lunatics so found by inquisition?—436.

48,348. And the total number of persons under your care is about 5,000?—Just under 5,000.

48,349. Then of the 4,500 or rather more who are not lunatics so found by inquisition, how many are lunatics and how many are persons unable to attend to their affairs?—I am afraid we cannot tell that; they are not a very large class, I think—those we call the D cases.

48,350. The majority will be lunatics?—Yes, the great majority. I should think, certainly, not more

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than 10 per cent. would be persons enfeebled by old age or disease.

48,351. (*Lord Mersey.*) That would be about 500?—I should think that probably would be somewhere near the right figure.

48,352. (*Chairman.*) That would be 436 lunatics so found by inquisition, 500 persons not lunatics but incapable of attending to their affairs, and the remaining 4,000 or so lunatics certificated by justices of the peace, whose property as the result of application was brought under the masters?—Yes, but it is not quite accurate to say that those 4,000 would be all certificated by a justice of the peace, inasmuch as many of them are not certified at all; they are people of small property who live at home and are lunatics, but are not so certified—harmless people, idiots, would be among that class, not always certified.

48,353. Then a person may be a lunatic so far as regards the masters having the care of his property, but not a certified lunatic as regards the charge of his person?—Yes, certainly.

48,354. The work of the masters is mainly the administration of the estates of these 5,000 persons, and the task of seeing that their property is applied in a suitable manner to their interests?—Yes.

48,355. Besides that, there is the holding of inquisitions, which has practically died out?—Yes.

48,356. Does that cover the whole of the work, or are there any other branches?—No, I think that is everything, if you include, of course, in administration that they have to hear summonses and have to settle a large number of deeds and to consider accounts. Those are the principal heads under which it falls; but it is all really included under the large head of administration. They may have to carry on businesses of all kinds, and to deal with investments of infinite variety; there is hardly anything that may not come under the master's purview.

48,357. In fact, any business that was carried on by the patient, or in which he was interested, may come under the master's control and review?—Exactly.

48,358. Now will you tell us what the functions of the visitors are?—The visitors, of course, were originally created with a view to visit the lunatics so found by inquisition, whom they had to visit by statute twice a year; but those persons have very much diminished in number, and if the visitors only had to visit them, their occupation would be very much diminished indeed; I do not think they would have enough to do. But there is also power under the Act to ask them to visit persons who are alleged to be lunatics; and under that power they have been asked to visit a certain number of persons not lunatics so found by inquisition. In fact, it is quite essential that there should be that power, because in many cases it is absolutely necessary that one should be able to send somebody to see what is going on, and to look into the case, and consider whether the patient is really a lunatic, and so on. But those cases are not very numerous as regards the visitors, because we can get information in other ways. I think that 100 lunatics, not so found by inquisition, have been put on the visitors' permanent list, as they call it, and those they visit twice a year; and then, besides that, last year, I think, they made, on our request, something under 300 visits—about 270; I have not got the exact figure in my mind.

48,359. Those are special visits made at the request of the masters?—At the request of the masters.

48,360. Do they make special visits and reports under the instructions of the Lord Chancellor?—Yes, whenever he asks them to do so. I should think that does not happen very often, but it does happen. Then all the reports on the lunatics so found by inquisition go to the Lord Chancellor; the masters never see them. The other reports, the reports made upon their own request, the masters do see; and those also go to the Lord Chancellor.

48,361. Is there a report made on every visit?—Yes.

48,362. The reports on lunatics so found by inquisition do not come to the masters?—They do not. The masters, of course, can see them, if they ask for them.

48,363. Although the masters are administering the property?—Yes; but we can ask for them, and if we want to know anything about lunatics so found by inquisition, we can always go and inquire. But they do not as a matter of course come to us.

48,364. Is not that somewhat anomalous?—I think it is decidedly so, but I do not know that any harm results from it.

48,365. Do you see any reason for it?—Well, I suppose it goes back to the old days when things were managed on rather different lines. The masters in those days were not persons much more than clerks, and there would have been no reason for sending the reports to them then, because they could not do anything upon them. Now, of course, they can act upon them, and do what is necessary. That, I think, is the historical reason for it.

48,366. As I understand your historical sketch, the masters have in their process of development taken the place of the Lord Chancellor as it was originally, and the judges in Lunacy as it was afterwards, for practically all purposes?—That is so; the masters having formerly been a sort of superior clerks to the judge have now become the judge in Lunacy and the judge in Lunacy has become a court of appeal from the masters.

48,367. And appeals are very rare?—Yes, I think they are. The matters are not generally matters that are capable of being appealed; they are very largely matters of discretion, where, unless you exercise your discretion very wrongly, it is very difficult to appeal. I think there have been four appeals last year, and there were nine appeals in the previous year, but they never were very numerous.

48,368. (*Lord Mersey.*) And how many of the four succeeded?—I believe three did.

48,369. (*Chairman.*) The method of dealing with reports has not followed the process of evolution that has been applied to the office in general?—No.

48,370. What are the functions of the Commissioners as they were, the Board of Control as they are now?—Their function, as I understand it, is to visit all institutions for lunatics, asylums, licensed houses, hospitals, and also lunatics kept as single patients—to visit the places and see that they are properly kept, that proper books are kept, that the law is obeyed, and so on; that is their function.

48,371. And that function applies to a very large number of lunatics, some 130,000, throughout England and Wales?—Yes, and of course the large mass of lunatics under the masters' jurisdiction who may be subject to visitation by the visitors on request are in asylums or licensed houses, and therefore they are also visited by the Board of Control, so that there is very great overlapping.

48,372. Does that apply to lunatics so found by inquisition as well as to certified lunatics. If a lunatic so found by inquisition is in an asylum is he visited by the Board of Control?—I am told that a lunatic so found by inquisition even in an asylum is exempt from visitation by the Board of Control.

48,373. (*Mr. Boutwood.*) Does the Board of Control inspect merely the institution, or does it examine the individual; does it inquire into his lunacy as well as inquire into his care and treatment?—I think they do both; they not only inquire into the administration, but they see every patient, or are supposed to see every patient, but it must be a very casual seeing.

48,374. (*Lord Mersey.*) Could you give us an example of the overlapping which you say takes place?—One of my patients may be in a licensed house, say, which is visited by the Board of Control. I have no relation with the Board of Control at all; I know nothing about them, and they know nothing about me; therefore, if I want to know how this patient is going on, I have to ask one of the Chancery visitors to go and see him, although he has already been visited by the Board of Control and they know all about him. That is an instance of overlapping.

48,375. You cannot ask the Board of Control to examine the case and report to you?—Theoretically not, but no doubt in practice if I ever do ask them to give me information they are always most obliging and

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willing to do anything they can; but they do not go to see the patient in the same spirit as my visitors go; they know nothing about his property.

48,376. Would you call that overlapping?—Yes, I think so, because if a member of the Board of Control had the proper information he would by his visit be able to tell me exactly how things stand.

48,377. But he has not the information?—But he ought to have it.

48,378. The information that you would get from him would not be satisfactory to you?—No, certainly not, unless he knew what I want to know. But then if the offices were united, of course he would have all the information that I have, and his visit would therefore not be what you may call a sort of partial visit that does not go really to the root of the matter.

48,379. Then is it your suggestion that the Board of Control should be provided with the information about the estate of a lunatic which you possess?—I do not think I should suggest that, as things stand now, because that probably would be imposing upon them duties which they would not care about; but if you could amalgamate the three departments, the difficulty would disappear at once.

48,380. As I understand, it has already been decided that there should not be such amalgamation?—That is so.

48,381. (*Chairman.*) Coming now to the question of the appointment of masters, how are they appointed?—The masters are appointed by the Lord Chancellor.

48,382. Is there a statutory qualification?—Yes, a barrister of 10 years' standing.

48,383. The salary of each master is 2,000*l.* a year?—Yes.

48,384. And that has been the salary for a very long time?—Yes, ever since the very first appointment, I believe.

48,385. What is the establishment of the office; how many clerks are there?—There are 19 clerks altogether. Two of those are devoted to the taxing part of the business.

48,386. There is one chief clerk?—Yes; and putting aside the taxing part of the business, there are six first class clerks or principal clerks.

48,387. Taking the total number, there are seven first class clerks, eight second class clerks, and three third class clerks?—Yes.

48,388. And out of that number one first class clerk and one second class clerk are specially employed in taxing work?—Yes.

48,389. The salary of the chief clerk is 800*l.* a year?—Yes.

48,390. And for the first, second, and third class clerks the scale is the usual scale for the other legal offices?—Yes, I think so.

48,391. In practice, are appointments always made to the third class, or are direct appointments ever made to the first and second classes?—Usually appointments are made to the third class, but there have been cases where the appointments have been made to the second class. I know of one appointment made direct to a second class clerkship, but, as a rule, they begin in the third class.

48,392. (*Mr. Boutwood.*) How long ago was that one case that you know of?—In 1894.

48,393. (*Chairman.*) Was that because there was no sufficiently qualified person in the third class?—I suppose it was. He was appointed by Mr. Maclean; he had in view a specially competent gentleman, whom he thought very useful, I suppose, and he appointed him to the second class, on the understanding that he was to become a first class clerk on the next vacancy. He is now a first class clerk, and a very valuable official, too.

48,394. By whom are the clerks appointed?—By the masters, subject to the approval of the Lord Chancellor.

48,395. The system differs from the system in the other legal departments where the appointments are made by the Lord Chancellor?—Yes, it does in that respect.

48,396. As between the two masters, how are appointments made; are they made by the two jointly?—No, they take it alternately, but they have to agree, or at

any rate they are expected to agree, in any appointment that is recommended to the Lord Chancellor.

48,397. In your opinion does that system work satisfactorily?—I think it has worked satisfactorily in the past. The office is composed on the whole, I think, of very good men. A large majority of them, I think, are public school men; there are five university men among them, and there are, I think, four barristers and four solicitors, so that they are a fairly competent set of men.

48,398. Has the chief clerk general duties connected with organisation and discipline as well as with the actual work of the office?—He has the general superintendence of the subordinate clerks, and he has to see that the attendances are properly kept; he keeps a book of the absences, and he knows when anybody is ill, and so on. They have to apply to him if they want to be away, and, of course, he acts, so to speak, as an intermediary between the two sides.

48,399. By the two sides, do you mean the visitors and the masters?—No, between the two masters, because each master has a separate staff attached to him.

48,400. What are the office hours?—From 10 to 4.

48,401. Is that all the year round?—No, not in the vacation. During the Long Vacation the attendance is only from 11 to 1, and, of course, then only a small part of the staff attends, two clerks in the vacation.

48,402. Does that apply also to the Christmas and Easter Vacations?—Yes.

48,403. The hours are shortened and the staff is diminished during those vacations?—Yes.

48,404. That means that the great majority of the staff have practically the legal holidays in the vacations?—Yes, they have the Long Vacation.

48,405. The Long Vacation and the other vacations, too?—Yes.

48,406. The small staff which has to attend during vacations has the benefit of the shorter hours in the vacations?—Yes.

48,407. (*Mr. Coward.*) Are both masters present in the vacation?—No, neither of them, as a rule.

48,408. (*Chairman.*) What are the arrangements for carrying on the masters' work during the vacation?—There are the two clerks in attendance, and they communicate by post with the master everything that is wanted. There is very little work during the Long Vacation, hardly any, but whatever work there is is sent to the masters and is almost immediately attended to.

48,409. (*Lord Mersey.*) I do not understand that. How is it that there is very little work in the Long Vacation? I should have thought the work was just the same?—No, it is not, because, you see, solicitors do not want to have any unnecessary work during the vacation, and very few summonses are taken out for appointment of receivers, and so on; those are nearly always postponed till term time. The work is very much diminished. There is, of course, a certain amount of administrative work that has to be done, but it is very rarely of an urgent kind. Every summons that comes in and is issued during the Long Vacation is, of course, always attended to immediately.

48,410. Then that means that if the whole staff were there during the vacation they would have nothing to do or very little to do?—Yes, it means that they would not have much to do, certainly not enough to keep them at work all the time. But you will observe, of course, that the work is increasing year by year enormously and rapidly; in 25 years it has nearly quadrupled.

48,411. (*Chairman.*) Measured in what way?—By the number of new cases, or rather, the number of cases in the office—1,200 in 1890 and 5,000 we have now.

48,412. Does each case of a new kind, which has come in since the legislation of 1890, mean as much work as each case under the old system?—I should say quite as much, if not more, because the masters have not got the statutory visits.

48,413. So far as all the work of summonses, drawing deeds, and so forth, is concerned, it would be substantially the same with these new cases as with the old?—Yes, practically.

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48,414. (*Lord Mersey.*) Has there been any great increase in staff since 1890?—No, I understand that there has not been since 1890.

48,415. It is since 1890 that there has been this large increase in numbers?—Yes, it is entirely since 1890.

48,416. Then either your present staff is very much overworked, or the staff in 1890 was very much under-worked?—Yes, that may be a just conclusion; I am not at all sure that it is not, although I myself should not say that the present staff is greatly overworked. I think they are sufficiently worked, but I do not think it is fair or right to say that they are greatly over-worked.

48,417. (*Mr. Coward.*) Considering the hours of 10 to 4?—Yes.

48,418. (*Mr. Graham Wallas.*) They have time during the Long Vacation to recover from any over-work?—They have.

48,419. (*Chairman.*) During term time, when the hours are from 10 to 4, do the clerks ever have to stop beyond office hours?—They are not obliged to do so, of course, but many clerks do, and many clerks take work home; there is a great deal of work done out of office hours.

48,420. Must the work in term time habitually be taken home and done after office hours in order to get through it?—That is very much a question of the personal equation. I do not think so myself. With a quick and ready worker there ought to be no necessity for taking things home; but some of them find that they have to do so. It depends very much on the individual; some people work so very slowly and others work so rapidly that it is difficult to lay down any general rule about it.

48,421. You are satisfied with regard to the staff provided under the present system?—Yes, I think we have as good a set of men as you could wish to have on the whole.

48,422. The suggestion has been made to the Commission that the system of open competition which is applied to the Civil Service generally should be applied to the legal departments. What is your opinion with regard to that suggestion?—It is very difficult to see how you would get people with legal qualifications if you had a competitive examination. I do not quite know how it would work.

48,423. One suggestion that has been made is, that there should be free competition among persons who have a certain amount of experience either as a barrister or in a solicitor's office. Would that suggestion commend itself to you?—That might be a good suggestion, because then all the candidates would be persons with the necessary qualification.

48,424. Some legal experience is desirable?—It is most desirable certainly, and in a first class clerk it is absolutely indispensable.

48,425. Have your first class clerks considerable responsibility in their work?—Yes, I think they have great responsibility. Everything in the office is practically *ex parte*, that is to say, there is no opposition, there is no opposing party; and any difficulties that arise have to be taken by the clerks themselves; they have to find out all the difficulties, they have to criticise accounts and so on themselves, and they have not got the assistance of an opposing party anywhere.

48,426. What do you consider the most important work done by a first class clerk?—I think drawing an order is the most important work and the most difficult, but then, on the other hand, they get most assistance from the masters.

48,427. An order would always be brought to the master for final approval?—He always has to sign it, and of course he ought to read it and see that it is right. It is difficult, because they deal with the Pay Office, with funds in court, and those are things which are highly technical and have to be done by somebody who understands the matter. I think that is the most difficult work. But on the other hand they have the accounts, also involving a good deal of difficulty and requiring, perhaps, in some ways almost more discretion than the orders.

48,428. Is that passing the accounts of receivers and committees?—Yes.

48,429. And in the case of orders does the work consist in drawing up the actual order after the master has decided the point?—Yes; the master sketches out what the order is to be, and then that is put into shape by his principal clerk, and then it comes back to the master for settlement, and ultimately for his signature.

48,430. In fact it is work of the same character as that done by the registrars in Chancery?—Yes, it is exactly the same.

48,431. Are the orders of a similar character to Chancery orders?—Yes, I think they are; they do not contain declarations and decisions of questions, but they are practically the same, I think.

48,432. Do you consider that they are orders which require as much knowledge and experience as the orders which are drawn up by the Chancery registrars?—Yes, I do most decidedly.

48,433. You find that that work is satisfactorily done by your first class clerks?—Yes, it is very satisfactorily done, according to my experience.

48,434. Do you often have to revise the draft of an order that they bring you?—Yes, very often.

48,435. Then, so far as you have to revise it, it is not perfectly done?—No, it is not always perfectly done; but it is done in a manner that relieves me of a great deal of trouble, and I dare say very often the alterations that I make are not, perhaps, things that go to the root of the matter at all, but matters of taste and style. Everybody has his own way of doing things. I do not myself like to sign an order that I have not read through from beginning to end; and that necessarily sometimes involves alterations and changes. But I must say I do not often find serious mistakes—very rarely.

48,436. Coming now to the lower classes, what is the nature of their work; taking the work of a third class clerk, does it involve much responsibility?—No, not I think as regards the third class; they do what is called registration work, which means keeping books, entering orders, and giving out things to solicitors, casting accounts, and so on—a lot of miscellaneous work of that kind. I do not think it can be said to involve any very serious responsibility.

48,437. The work is mainly of a routine or mechanical character?—Yes, it is of a mechanical nature entirely. It has to be done accurately, of course.

48,438. Do you find that it is a satisfactory preparation for the work of the higher classes?—No, I do not think that the work of a third class clerk is very much preparation, but they are always seeing the other work, and we bring them, so far as we can, to assist in accounting and so on; they are gradually trained up to it; they are not absolutely limited to doing a third class clerk's work.

48,439. Some witnesses who have appeared before us have suggested that the right method is to offer no prospect of promotion to persons appointed to the third class, where they will be doing the mechanical work, and to recruit separately for the higher classes from among persons of legal experience. For your office do you consider that system would be an improvement, or do you prefer the present system?—I do not know that I have really considered that question. The present system certainly works very well, and it is an advantage, I think, that a man should rise from the very bottom and know all the ins and outs of the office from the very beginning; that has its advantages; and it would of course introduce rather a different element into the office if you had clerks who are not supposed to rise.

48,440. (*Mr. Coward.*) You only have two third class clerks?—There are three. It is not a matter of great importance, I think.

48,441. (*Chairman.*) As regards the masters themselves, do you find that the system of two co-ordinate masters is satisfactory?—No, I think it is very unsatisfactory.

48,442. In what respects?—It has all the disadvantages of dual control. You have two masters, each going on his own lines, and very often different lines, doing the work in a different way, requiring different things in point of practice, wanting different kinds of

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affidavits and so on, drawing orders on quite different lines. The whole thing is unsatisfactory from that point of view. And there is no uniformity. It is very difficult to get it. You try to get it, but you do not. For instance, some years ago Mr. Fischer and I agreed that there should be common forms of orders, which was very useful indeed, and that introduced certain uniformity for a time; but there is a constant tendency to fall away and to fall aside, and to go back into the old courses. What is really wanted is that the whole thing should be put under one control; until that is done the office will never, in my opinion, be adequately and properly administered with first-class efficiency.

48,443. Do you consider that two masters are necessary for the work?—No, I do not think so myself, but many others would not agree with that.

48,444. At present you think that the work might be performed by one officer?—I do.

48,445. And if any further strength were required you would make the second officer subordinate to the first, and not co-ordinate?—If there were another master how exactly to work it would be a rather difficult question. I do not think myself, that I like the idea of an assistant master very much; you would have to arrange what the relations between the two were to be very carefully. I think it would be better if it could be done in this way: That you should have a single master, and then let him arrange how the work is to be done. The work would have, to some extent, to be reorganised; you would have to pool the work, and get more assistance from your staff; you would probably utilise the chief clerk, and perhaps another clerk, in some way more on the lines of the Chancery Division, where each judge has two chief clerks—something of that kind might be done. There are many ways of doing it; exactly how it should be done is a matter that would have to be very carefully considered. I do not profess to have thought out a scheme of that kind, but I am quite satisfied that if you had a man willing to do the work—it must not be a man who got it merely as a retiring pension, or a nice comfortable income; it must be a man who will really put his back into it, and do the work—if you have a man of that kind, he can do the work easily.

48,446. You see very great advantage in having a single head?—Yes, I think so; I think everybody would see that. At present solicitors complain; they come to me and say, "Oh, but Mr. So-and-so allowed all this, " and you will not—you are very hard upon us;" and it is hard; I recognise that.

48,447. (Mr. Coward.) And that does occur constantly?—It does; it occurs every day almost. It is impossible to get uniformity. It is not that the masters would not agree if they could meet together and discuss together, and thresh things out; but when you have two elderly barristers each wanting to go his own way, and each has his own opinion and his own way of doing work, you will not get uniformity.

48,448. (Chairman.) And owing to the fact that the right of appeal is very little exercised, uniformity is not secured in that way?—Not in the least; there is no uniformity whatever. Even if you have the right of appeal, it is only an appeal to a judge in chambers; it is not like an appeal in the High Court. You may have a dozen judges there, but you have the Court of Appeal, and cases are constantly being reconsidered; and then you have the opinion of the Bar, where the whole matter is brought into court and discussed. But the Lunacy work is always more or less in a hole and corner—nobody knows anything about it.

48,449. (Lord Mersey.) There is, as I understand, no allocation to each master of particular cases?—Yes, there is; it is done by rota.

48,450. Then the differences that arise are not differences that affect a particular case?—No, they affect the practice of each master; the cases are rotated.

48,451. That is to say, you might have control of lunatic A, and you would have sole control of lunatic A?—Yes.

48,452. Therefore all the orders that you made with reference to lunatic A would be in accord?—Yes, that is so.

48,453. The discord comes between orders made in A's case and orders made by the other master in B's case?—Yes.

48,454. (Chairman.) The same solicitor might be dealing with client A and client B, and find a different practice in dealing with his two clients?—He might.

48,455. As regards the relation of the visitors to the masters, do you find the present system satisfactory?—Yes, I think, on the whole, it works fairly well as long as matters are arranged on the present system. I think we get all the information we want.

48,456. The visitors are your eyes and ears for finding out the facts?—Yes.

48,457. In cases where there is an administrative authority and an inspecting authority, the usual arrangement is for the inspecting authority to be subordinate to the administrative authority, is it not?—Yes.

48,458. Are there reasons in the present case for departing from that system, or would that system be preferable?—They are, of course, in a sense subordinate. I do not mean to say subordinate as officers, but they are under the masters, they are set in motion by the masters, and their reports only come when they are asked for them; they have no originating power of their own.

48,459. They are under the master in this sense, that the master can ask them to visit a particular lunatic?—Yes, only in that sense, of course.

48,460. But as regards the arrangement of their work, the method of carrying it out, and so forth, they are entirely independent of the masters?—Yes, that is so.

48,461. A considerable part of their work consists of reports to the Lord Chancellor, not to the masters at all?—That is so.

48,462. Reports which never come to the masters unless they ask for them?—That is so.

48,463. If the organisation could be set up afresh, would it not be more natural to place the visitors in subordination to the masters as part of their organisation?—If you could have that ideal state of things, no doubt great reforms might be made, and very useful reforms. I think certainly there should be at once more centralisation and more decentralisation. What you want is to have visitors all over the country, not people living in London, but visitors on the spot.

48,464. (Lord Mersey.) How many visitors are there at present?—Three; two medical and one legal.

48,465. (Chairman.) And their headquarters are in London?—Yes.

48,466. So that for visiting distant parts of the country it means a good deal of travelling, which would be unnecessary if they were located on the spot?—Yes.

48,467. (Lord Mersey.) But if they were on the spot you would require a very much larger number?—Yes, you would, much larger.

48,468. (Mr. Graham Wallas.) They would not be full-time appointments?—I do not think you would expect, in that case, to have such expensive officials if you had them all over the country. It is really a question on which you would have to consult and find out how it could be done.

48,469. (Lord Mersey.) If you had them all over the country, I suppose you would probably pay them per head, as it were, pay them for each visit?—That would be one way of doing it, no doubt.

48,470. (Chairman.) You have, I think, periodical meetings with the visitors?—Yes, we meet once a month.

48,471. What is the business that is done at those meetings?—There is no business really, as a board; there is nothing to discuss, as a board. We meet, and the visitors mention cases that they have visited; but that has not anything to do with meeting as a board, it really has no meaning as a board meeting whatever; but is useful inasmuch as if there is any case about which you want to speak to the visitor personally you can talk to him about it. That, I think, is the real use of those board meetings. There is no business; nothing to put to the meeting; no resolutions are passed, or anything of that kind. There is a sort of general conversation—that is what it comes to.

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48,472. General conversation about particular cases?—Yes.

48,473. In fact, it is an opportunity for personal consultation and discussion of cases?—Yes, that is the utility of it, I think.

48,474. Would it be more difficult to arrange these meetings if the visitors were located at points in the country?—Yes, it would be impossible; but I do not think that is of very great importance, because you ought to have on your report everything you want to know; and if you want to know anything more, I suppose you could get it by correspondence.

48,475. If, as the result of a visitor's report, some alteration is required in the arrangements for the maintenance of a lunatic, how is that carried out; how are instructions given?—The first thing to do is to write to the receiver, or the receiver's solicitor, and tell him "The visitor has made such and such a recommendation. Is there any reason why it should not be carried out?" Then the receiver either assents or dissents, and if he dissents, of course, he has to give his reasons. It sometimes happens that he does not like the recommendation, and he has good reasons for objecting to it; then it is not carried out. But, as a rule, I think in most cases, the receivers are quite willing to do what is suggested.

48,476. Does the visitor know what instructions are given upon his report?—Yes, an endorsement is put upon the report, and that goes back to the visitor. He sees what has happened; he sees what the master has done.

48,477. And at his next visit he sees whether that is carried out?—Yes.

48,478. Does he, as a matter of fact, give instructions himself on minor points?—No, I do not think so. As regards lunatics so found by inquisition, he may do so, and I dare say he does in small details.

48,479. What strikes me is that in visits of that sort there must often be small details on which the visitor may see something that would be for the comfort of the lunatic. It would hardly be worth making a special report and sending instructions to a solicitor, and so forth, but the matter could be set right by a personal suggestion of the visitor on his visit?—I think in that case he would do it in small matters of domestic economy, and so on.

48,480. But that would be a matter of advice and not an instruction of the kind that a master can give?—Yes, entirely.

48,481. Is there any fixed age for retirement at present, either for masters or clerks?—No, not any.

48,482. Do you think there ought to be?—I do, most strongly.

48,483. Have there, in the past, been cases in which it would have been advantageous to have a fixed age for retirement?—I am afraid so. I do not think you can expect a man in extreme old age to carry on such work as this.

48,484. (Mr. Coward.) But it varies very much?—It does enormously; but still I think a limit of age ought to be fixed both for masters and for the staff. The thing has been almost scandalous in the past in some cases.

48,485. (Chairman.) In the case of the staff, do you consider that the general Civil Service rule would be suitable?—I think so myself; other people, of course, have different opinions about that. It seems to me a very reasonable limit. It is 65, is it not?

48,486. The rule is that a man may retire at 60, and can be called upon by the head of his department to retire at 60, and he must retire at 65, with the possibility of exceptions in very special cases?—Yes, I think that is a very good rule indeed.

48,487. Then as regards the masters themselves, what age would you suggest as the limit of office?—It is very difficult to say, but there, again, I should have thought that 72 was an outside limit.

48,488. (Lord Mersey.) Why would you make it higher in the case of masters than in the case of clerks?—That is rather a difficult question to answer. I was rather putting it on the analogy of the judges.

48,489. The judges go on for ever?—But there was a committee, I think, which discussed that question, and

they were of opinion, on the whole, that 72 would be a reasonable age for retirement of a judge. I am not suggesting for a moment that a Master in Lunacy is at all as great a person as a judge; of course he is not; but at the same time his work is very much more like that of a judge than that of a Civil servant, and if you were to adopt that analogy I should think it would be a reasonable rule. It might be fixed, perhaps, with advantage even at an earlier age, but I should say that 72 would be the very outside limit.

48,490. (Chairman.) And as regards visitors, do you consider that there ought to be a limit in their case?—I think so, most decidedly.

48,491. Would you, in their case, suggest the Civil Service limit or the judicial limit?—I think I should prefer to apply the Civil Service limit to them, but it is difficult to say.

48,492. Their work, with a large amount of travelling, must be very exacting for men of advancing years?—Yes, it is. There is a great deal of travelling about. Of course, it would be very desirable to get a little movement in these things. I should myself like to see a visitor appointed for 10 years only, with an option to continue him; but, of course, that is another matter. It is a case, really, where you want to have new blood, and the latest scientific methods, and all that introduced, if you can, but we are backward in all these things.

48,493. The taxing is at present done, as you told us, by a first class clerk in the office, assisted by a second class clerk?—Yes.

48,494. Recommendations have been made by some of the committees that have sat on the subject that the taxing should be transferred to the Central Taxing Office?—Yes.

48,495. What is your opinion on that point?—I do not see what advantage you would gain by that. You would gain the advantage of uniformity, but, on the other hand, you would very largely increase the expense, which would cost about 1,200*l.* a year more, I estimate, unless you were to distribute the Lunacy taxing over all the taxing masters, or make one of the existing taxing masters the Lunacy taxing master; but I should think the Central Office people would not like that. If it means that you are to have another taxing master in the Central Office, I cannot see what advantage you would gain.

48,496. Is the work done satisfactorily at present?—I believe quite satisfactorily, so far as I know.

48,497. You have had no complaints on the subject?—I do not say that the solicitors do not dislike having their bills taxed down; they do; but I do not think they would dislike it more from Mr. Corley than from anybody else. I have not heard any complaints of injustice or improper taxing.

48,498. Or an application of a different standard of rules from those applied in the general taxings?—No, I do not think I have heard that; but that, of course, is a matter which would not much come before me. That is rather a solicitor's question. I do not like to express a decided opinion about that.

48,499. Is there an appeal to the master from the taxation of the first class clerk?—It is not really an appeal. The master is his own taxing officer. He does it, it is true, by the hand of an officer, but still he is the taxing officer. Of course, numerous points are referred to the master, but it is not, technically, an appeal.

48,500. Any point of doubt is brought to him?—Any point of doubt is brought to him, and, of course, there is an appeal from the master to the Lords Justices.

48,501. Is that ever exercised?—I think, practically, not.

48,502. (Mr. Coward.) Lunacy bills are very different from the ordinary bills?—They are.

48,503. They are all composed of comparatively small items?—They are.

48,504. The attendances upon the master and a letter or two, and the question of whether the master will allow 3*s.* 6*d.* or 5*s.* for a letter, and 6*s.* 8*d.* or 10*s.*, or whatever it may be, for an attendance—they are little things?—Yes, they are very little things.

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48,505. (*Chairman.*) The business being almost entirely non-contentious, there are none of the large charges arising out of contentious business. Is that the point?—Yes. For instance, if you are taxing a bill in an action you can get up to 300*l.* or 400*l.* in a page or two, because there are counsel's fees, witnesses' fees, and large disbursements; whereas, in Lunacy, you may read 50 pages before you get to 100*l.* The work is heavier in that way. There is a great deal more to read over and very much less to show for it.

48,506. In the office is promotion at present by seniority or by selection?—It is by selection, but, of course, seniority has weight. I mean, no clerk is entitled to be promoted because he is the senior clerk for the post, but if he is the senior clerk that is an element which would have great weight in considering the question.

48,507. In practice, does that result in seniority being generally followed?—No; there have been several cases lately in my time when that has not been followed and the best man has been appointed, though there was another man who was of longer standing; but it does, no doubt, happen more often than not that the senior man is promoted. I think I may go as far as that.

48,508. Is promotion made by the masters themselves?—Yes, subject, of course, to the approval of the Lord Chancellor.

48,509. The staff is divided into two separate compartments, one belonging to each master?—Yes.

48,510. Is there any difficulty in comparing the relative merits of the clerks attached to one master and the other?—Of course, the master to whom they do not belong has very great difficulty in knowing their abilities. I myself now, having had to do the work on both sides, have got to know the whole staff, but for a long time I knew nothing whatever of Master Fischer's staff, and the consequence was, when promotion came along and had to be considered, I was in a great difficulty to know what to do.

48,511. How did it happen that you had to do the work of both sides?—It was during Master Fischer's illness. When I came back after the Long Vacation he was ill, and I did his work until he died in November, and a new master was not appointed until December; so I had, roughly, two months of it.

48,512. That difficulty as regards knowing the clerks would be removed if, as you suggested, there was one head of the office?—Yes, undoubtedly. Of course there is a certain amount of wastage by having the office divided absolutely into two divisions. There is always, of course, one clerk who has a little spare time which cannot be utilised; you cannot throw him into the other side where there may be pressure of work.

48,513. A clerk is not eligible for appointment as a master unless he happens to have had 10 years' qualification as a barrister?—No, he must be a barrister of 10 years' standing.

48,514. Have any of the clerks that qualification?—I think some of them are barristers of over 10 years' standing.

48,515. (*Lord Mersey.*) Has a clerk ever been made a master?—No, never.

48,516. (*Chairman.*) But if a clerk had that statutory qualification, there would be nothing to prevent him being appointed, if the Lord Chancellor thought him a suitable person?—No, that is the only qualification—10 years' standing as a barrister.

48,517. (*Lord Mersey.*) You told us that there were three visitors, two medical men and one legal?—Yes.

48,518. When you request one of these visitors to see a patient, do you choose from the three according to the particular circumstances of the case?—No.

48,519. I mean, do you send the legal man in some cases and the medical man in others?—No.

48,520. You do not send the three together?—No, we make no selection. The request goes down to the visitors' office asking that a report may be made.

48,521. Then is it a chance whether the legal man goes or a medical man goes?—It is a chance, unless you specially ask for a medical visit; then, of course, a medical visitor would go.

48,522. The legal visitor, of course, is a barrister?—Yes.

48,523. He does not take practice?—No, I think not.
48,524. Do the medical men carry on their profession?—No.

48,525. What is the pay of the medical man?—1,500*l.* a year.

48,526. You suggested that it might be desirable to have a larger number of these gentlemen distributed over the country?—Yes.

48,527. Have you considered whether that would increase the expense much?—I should have thought it ought not to; but I have not considered that question, because it is impossible to consider it without taking medical advice about it. One would like to consult experienced medical men.

48,528. As I understand, what you would do would be to nominate a certain number of medical men up and down the country, who should, as occasion arose, pay the visit that the master desired him to pay?—Yes.

48,529. Then he would, of course, carry on his profession in the ordinary way?—Well, that is a matter, of course, for consideration. I do not know whether it would be a good thing, because it is rather a difficult matter. There are a large number of asylums and licensed houses all over the country, to each of which there is a medical superintendent, of course a highly competent gentleman, or he is supposed to be, at any rate. Possibly an arrangement might be made so that those gentlemen might be utilised as visitors.

48,530. I do not quite see how you would make the arrangement you suggested apply to the case of the legal visitor?—I do not see myself that the legal visitor is wanted; it is quite an anomalous position.

48,531. What is it that the legal visitor does that is different from the work of the medical visitors?—He does exactly the same.

48,532. What is the object of having a legal visitor?—I do not know at all. It goes back to the Act of 1845—two medical and one legal. Why there was a legal gentleman appointed I have never been able to understand. I do not for a moment wish to say that the legal visitor is not most valuable and most useful; but he has no different functions to perform than the medical visitors.

48,533. Could you tell us what the functions are of the visitors? What is it that the masters ask them to do?—Take a very common case. You find a lunatic is in an asylum; he has got, say, an income of 500*l.* a year, and you find perhaps that 150*l.* is being spent. Then it occurs to you that probably not enough is being spent and that the lunatic might be better cared for, and you ask a visitor to go and examine into the case, and he goes down and sees the patient; and it may be that the patient is quite incapable of enjoying anything else at all, and he says so, and there is an end of the matter; or he may say: "This patient is quite capable of enjoying all sorts of things—a separate sitting-room, or a carriage drive, and all sorts of luxuries."

48,534. (*Mr. Coward.*) A private room?—Yes; all kinds of little improvements may be suggested. That is one of the principal uses of a visit. Then there is always the case of the lunatic who says he has recovered, or that he wants to see a visitor. They like to be treated as if they are important people very often.

48,535. (*Lord Mersey.*) Has it ever happened that a patient has recovered?—Yes; there have been cases.

48,536. I have heard many cases where a lunatic has said he is well?—It is not often the case, but there have been cases where, as the result of a visit from a visitor, we have been able to set the patient free from asylum control.

48,537. I should have thought that for these cases a doctor was almost better than a legal man?—Yes, I think he is; in fact it is almost essential that he should be a doctor.

48,538. I rather gather that, from your point of view, the legal man is unnecessary?—I never was able to understand why one visitor should be a legal visitor. The masters themselves are lawyers and they do not want legal advice as a rule, and if they do want it they can always get it.

48,539. Do I understand that you do not get any advice from the legal visitor?—I remember a case

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where I did not get legal advice, but the Lord Chancellor did—a case where a lunatic woman had a considerable property in Scotland, and a hall-porter, I think, had married her. The Lord Chancellor wanted to know what the rights and wrongs of it were as regards the marriage, whether it could be set aside, and so on; and I remember the legal visitor then gave a very learned opinion about it. That is an instance.

48,540. A doctor could not have done that?—No, of course a legal opinion could have been got, but we should have had to pay for it, no doubt. The opinion we got cost nothing; but that is quite an exceptional case. That is the only case of the kind I remember. The legal visitor is never asked to advise the masters legally. You never ask him as to the construction of a will or anything of that kind.

48,541. I rather gather that you do not think that the system of appointment can be improved?—For the appointment of the staff I only judge from the fact that we have such a very good staff that probably you could not better it.

48,542. If you find the present system works very well, I suppose you would hesitate about altering it?—Exactly.

48,543. Do you find that the present system of promotion is satisfactory?—Yes, I think quite satisfactory.

48,544. But the present system of retirement you do not think is?—There is none at present.

48,545. I mean to say it is left to the discretion or the indiscretion of the individual?—Yes. There have been no cases of difficulty about staff so far as I know, and certainly in my time never anybody there who ought to have retired.

48,546. But you have heard of cases in days gone by?—No, I do not think so. I have not heard of them, but I do not say they may not have existed.

48,547. I thought you said that there had been cases where a man had remained long after the time when his powers failed?—Yes, that is as regards masters.

48,548. Not with regard to the staff?—No, I am not aware of any case of that kind. There may have been cases. I remember there were, when I was at the Bar, one or two very aged clerks in the master's office, but I have no personal experience of that.

48,549. (Mr. Boutwood.) There is one question I should like to put, rather to illustrate a general point which you have suggested. Two of the visitors are medical men who do not practise?—Yes, that is so.

48,550. Do you consider it a good system to have professional men of that sort holding office for life and quite cut off from the practice of their profession, or do you think it tends to isolate their views and practice and keep them in the background?—I should prefer to see them more in touch with the advance of science, and so on. Perhaps I ought not to say that, because after all I do not know enough about it, but I should like some circulation in the thing. If you could have visitors appointed for a shorter period, I think it would be an advantage. Of course the present visitors are very eminent persons.

48,551. (Mr. Graham Wallas.) You say that, owing to the system of dual control, there is a tendency for the practice of each master to diverge from that of the other master?—Yes.

48,552. That system of dual organisation goes right down through the office from the top to the bottom?—Except that it does not touch the third class clerks.

48,553. It goes right down to the bottom of the second class?—Yes, it does.

48,554. Therefore there is the same tendency right down through the practice of the office for divergence of usage and tradition?—Yes.

48,555. Every man on each side of the office looks for his promotion solely on his side?—No, not solely. You have to have the concurrence of both masters in moving up.

48,556. I know, but it is not the practice when a man is promoted from a second class clerk to a first class clerk to shift him from one side of the office to the other?—No, that is not usual. It has happened though in the case of one man who is now on my side and was formerly on Master Fischer's side.

48,557. The work of the third class clerks is that which, in an ordinary solicitor's office, is done by the office boy?—Hardly quite as poor as that. It is a little better than that, I think.

48,558. Who does the office boy's work?—There is no such work to be done. There is a messenger and the staff of the Royal Courts.

48,559. But outside the messenger and the gentlemen who see that the passages are cleaned, all work, however mechanical, has to be done by your third class clerks?—Yes, it has.

48,560. (Chairman.) Including such work as addressing envelopes?—(Mr. Prichard.) That is done by each member of the staff who writes himself. We do not have circular letters.

48,561. (Lord Mersey.) The man who writes the letter addresses the envelope?—Yes, I should myself.

48,562. (Mr. Graham Wallas to Master Theobald.) The last two appointments to the third class were made, judging by the dates here, at the age of 29?—I dare say that is so.

48,563. And they were made at a salary of 100l. a year?—Yes.

48,564. To the most mechanical work which exists in the office?—Yes.

48,565. And those who were so appointed were in fact on the ladder of promotion up to the very important work done by the first class clerks?—Yes.

48,566. In the case of a man of 29, do not you think you would get a better man at that age if you appointed him at a higher salary and with more responsible work?—If you appointed him, for instance, to be a second class clerk at once?

48,567. Appointed him at once to responsible work and at a salary corresponding to that responsible work?—Very likely you would; but it must be remembered what extraordinarily good men we have got to come in as third class clerks. It is always an astonishment to me that we get such good men at such poor pay.

48,568. You say in your memorandum that there is nothing in your office in the nature of a time-book?—No.

48,569. Have you ever satisfied yourself that in fact everybody at the office is in the office on the stroke of 10?—I cannot say I have.

48,570. Have you any opinion on the subject of whether in fact they are all there?—I should think they probably are not all there on the stroke of 10. But is not there a certain allowance made, even in the strictest office, of about 20 minutes, or something of that kind?

48,571. Then you think, in fact, 10 a.m. means in practice 10.20?—I should say you must take a liberal view of it, no doubt.

48,572. There, again, I suppose it is quite likely that the practice on the two sides might diverge?—No, I do not think so.

48,573. (Chairman.) Is not that a matter which is directly under the view of the chief clerk who deals with both sides?—Yes, he is the only gentleman who would know when the clerks attend. I should not know myself. I am not there at 10.

48,574. (Mr. Graham Wallas.) The Master of the Rolls' Committee in 1912 reported as follows: "We may add that the efficiency and dispatch with which the work of this office is carried out would be materially assisted by the employment of shorthand-writer typists. At present there are none employed. We think it desirable that one or more of such typists should be appointed. Advantage might be taken of any reduction in the number of the existing staff to give effect to this." Has that recommendation ever been carried out?—No.

48,575. Why?—There has not been, I think, any reduction in the staff, for one thing.

48,576. But there have been since that time two new appointments to the third class made?—Yes, I suppose nobody has asked for it, and I do not quite see what use it would be myself.

48,577. Then in the existing organisation of the legal departments, the fact that a committee has recommended such a thing may, in fact, be forgotten

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the moment the recommendation has been made?—I am afraid it looks like it in this particular case.

48,578. I see of the third class clerks lately appointed one is Mr. G. E. Prichard. Is he any relation of Mr. R. R. Prichard, the chief clerk?—Yes, he is his son.

48,579. When any vacancies occur in your staff, are any steps taken to make those vacancies known?—No, no public steps are taken, and there is no advertisement or notice or anything of that kind given.

48,580. Then in fact the only man who knows that there is a vacancy may be the chief clerk?—That is so, but of course the whole staff would know.

48,581. Is there what is known as a waiting list in the office?—Not strictly, but this happens and has happened: I get applications from time to time from gentlemen who want to know whether there is any vacancy in the office, and I always send those applications to be filed, and they would be attended to the next time there is a vacancy. There is no waiting list in any other sense.

48,582. As far as you know, no one has been promised the next vacancy at this moment?—No, there is nothing of that kind.

48,583. Now a personal question: Like Mr. Henry Fawcett, I believe you have the misfortune to be blind?—Yes.

48,584. You were appointed in 1907?—Yes.

48,585. Were you blind at the time of your appointment?—No, I was not.

48,586. It has come on since?—Yes. It came on in 1908, and I then, of course, tendered my resignation, which was not accepted.

48,587. Had you to satisfy the Civil Service Commission at the time you were appointed, and were you certificated by the Commissioners?—No.

48,588. In the case of a continuous office like the Lunacy Department, do you find it rather remarkable that the work dries up so completely in the Long Vacation that no master in Lunacy ever puts in any appearance during the Long Vacation?—Well, it is not necessary. Of course, if a master were wanted, he would go there at once.

48,589. Do not you think it may go the other way, that no work is presented because it is well known in the profession that no master is there?—No, I do not think so. The solicitors are told—at least, so far as I am concerned—that all work will be immediately attended to, and all summonses taken, and orders made upon them.

48,590. You told us that the work of a visitor is, in a matter of travelling, extremely exacting. Are you aware that there is no medical visitor whose age is below 70?—No, I did not know they were as old as that. I thought Dr. Nicolson was a good deal younger.

48,591. The age given us is 74 and 70?—No doubt that is correct.

48,592. In asking for assistance from a man of 74, do you find yourself influenced in the amount of assistance you ask for by his age?—No, I simply ask him to go and visit a patient—no more than that—giving him, of course, all the details of the case.

48,593. The late senior master, Master Fischer, is dead?—Yes.

48,594. What age was he at the time of his death?—84.

48,595. He did not resign before his death?—No.

48,596. Is there anyone who, if a master is in fact unable to perform his work from old age or ill health, can dismiss him?—I do not think so.

48,597. Your belief is that in your case, if you should happily live to 95, you will have an absolute freehold of your office?—Well, I suppose that is the legal position.

48,598. (Lord Mersey.) Who appoints you?—The Lord Chancellor.

48,599. Cannot the man who appoints you cancel the appointment?—No, I do not think so. That has always been felt to be a difficulty. I think if it could have been done in some former cases, it would have been done. Of course, the Lord Chancellor can bring great pressure to bear, I should think, upon anybody, and there is a way in which, if I live to 95, and become

what we call a D case, no doubt you might get the other master to make an order appointing a committee to make me resign the office.

48,600. (Mr. Graham Wallas.) But the committee would receive your salary, I suppose, and would spend it upon such indulgence as you were capable of enjoying?—He might make a bargain with the Treasury, but they are hard taskmasters, I expect.

48,601. (Mr. Coward.) If you had one master, as you were suggesting, it would tend to economise labour, would it not?—Undoubtedly.

48,602. And, probably, the effect would be that you might do with a smaller staff than is now employed, because now you have to divide the staff, and then you would have a consolidated one?—Yes, there is that possibility, remembering always that the office is increasing year by year.

48,603. Perhaps you are not quite so good a judge about this, but supposing you had a solicitor's office in which you had two partners, and you had the work divided, the clerks divided, and everything divided, of course it would be carried on at far greater cost than it would be if you had one staff?—Undoubtedly.

48,604. And I would suggest to you that the same principle would apply in your case?—Yes, I am quite of that opinion.

48,605. You were dealing just now with the relations between the masters and the visitors, and you told us that we were backward in all these things. Is there any other country in which they are more up-to-date than we are in these things?—Do you mean in the medical science relating to lunatics?

48,606. No; in what you were dealing with—the mode of governing and controlling these unfortunate people. I suppose that is what you meant when you said we were backward in all these things. In the arrangements you were speaking of between the masters and the visitors, could you make any suggestions of ways in which things might be improved? You say one master instead of two, and I should agree with you, but are we behind other nations in this?—That I do not think I could answer.

48,607. (Mr. Boutwood.) I thought you meant that our present arrangements did not really enable us to bring to the work of the visitors the best available medical knowledge in this country, and that, consequently, that work fell below a domestic standard—not below a foreign standard?—I do not think I intended to refer to foreign standards, because, of course, I am ignorant in those matters. I only know what people say. I have no accurate information about it.

48,608. (Mr. Coward.) You were talking about the difficulties in the forms of the orders. Will you kindly tell me what would be a form of order that you would consider of a difficult character? Can you shortly sketch one for me?—It is a little difficult to do that. If you have, as used to be the case, six gentlemen drawing orders, they are all drawn in different styles and on different lines and with different language, and so on. Even as regards the Pay Office, which ought to be uniform, you do not get uniformity. People use little expressions by which they do not shorten things in the way they might. For instance, a person may have a long name and two or three christian names, and the surname and the name is repeated over and over again in the order. That ought to be done by calling the person "the patient"; of course, there you have a short and concise expression. In the same way many of them will repeat the name of the receiver over and over again, when, of course, he ought to be called "the receiver"—all those little devices for shortening labour.

48,609. I was rather dealing with what sort of order you would say was a difficult order. You said there was a great difficulty, and these orders were upon a sort of level with the orders drawn in Chancery, which are very very different things?—No, I do not think so.

48,610. What would you consider an order that you would draw that would be an order of a difficult nature?—You may have an order which involves the sale of real estate, the sale of personal estate, the sale of furniture; you may require that outstanding cash should be lodged; you may have a direction that mortgages

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should be paid off; you may have to arrange how maintenance is to be got and applied; you may have to raise it by annual sales.

48,611. Still, all these things you would have to do; you simply put them down, and they are more in the form of a direction than anything else. Would it come in the order?—Yes, it would come in the order.

48,612. I appreciate what you mean?—I do not mean that the orders are specially difficult, but I do mean that they want technical knowledge, because when you have a fund in court and the Pay Office has to deal with it, the pay officers are technical people, and they want you to use their language. That is where the difficulty comes in. I do not say that they are precisely the same as the Chancery orders; of course they never could be like the old Chancery orders in the good old days when you had administration suits, and it was all done without pay schedules and things of that kind. Such orders you could never have in Lunacy, but they are also abolished in Chancery; the Chancery order nowadays is a very simple thing, and I do not think there is any substantial diversity of orders.

48,613. Then you would say that your orders are simple to-day?—Simple as compared with the old orders, but not easy things to draw without any experience and knowledge.

48,614. (*Sir John Kempe.*) With reference to recruiting your first and second class clerks, I presume if you have a vacancy in the second class and find a third class clerk suitable, you would put him up?—Yes.

48,615. That has happened sometimes?—Yes, it has.

48,616. Do you appoint the third class clerks with a view to that ultimate promotion. Do you pick out men who you think will be suitable for promotion by-and-by, or do you pick them out for the third class clerkships only?—I think you take the best man who offers himself.

48,617. You do not try to recruit from legal sources—from solicitors' offices, and so on?—No. What has generally happened in my experience has been that there would be applications, and when there is a vacancy it generally gets known and people apply, and among the applicants you select the one who appears to be the most satisfactory. Of course, if there is nobody satisfactory, you have to go farther afield.

48,618. I suppose the fact that you are so very top-heavy in your organisation, only having three third class clerks to 16 in the classes above them as compared with the other offices, gives you a very small recruiting ground in your third class?—Yes, there are so few of them.

48,619. It makes it much more rare to find one suitable to go up?—Of course the third class clerk, unless there is some real reason why he should not go up, would ordinarily become a second class clerk when there is a vacancy.

48,620. He would go up by seniority as a rule?—As a rule, I think, because you do not for a second class clerk necessarily require the same technical knowledge as in the case of a first class clerk.

48,621. Do you find any difficulty in teaching the third class clerks the duties of a second class clerk, or do you find them pick it up easily?—I think so.

48,622. Even though the clerk may not have had legal training beforehand?—I think so. They are generally very anxious to learn, and they do not find the third class work very interesting, and whenever they can they like to see what is going on in other ways.

48,623. I notice that you said the difficulty was to get the men to learn the technical work, the work of the office was so technical. What do you mean by "technical." Would the work of a legal office be more technical than that of an ordinary civil office. There is required a knowledge of certain Acts of Parliament, I suppose, and legal forms, but that is about all?—When I said technical I was referring to orders, I think; I did not mean that the other work was highly technical. It is the orders which are technical which have to deal with Pay Office funds.

48,624. Then your office is one of those in fact in which the ordinary system of promotion from the

bottom to the top can be carried out without any difficulty?—I think so.

48,625. You can train a man up to your work without difficulty?—I think so.

48,626. Early in your evidence you were speaking as to lunatics with property, and you said that the Commissioners very often had no opportunity of knowing what property they had. Can a person outside move in a case like this. Supposing a person outside knows there is some scandal going on as regards property of a lunatic, can he move and write to the Lord Chancellor?—Undoubtedly he can. If he did that, the thing would be at once taken up and looked into immediately.

48,627. It is not only the visitors who start a question of that kind, it can be started outside?—Yes.

48,628. (*Mr. Boutwood.*) What is the average length of service in your third class?—(*Mr. Prichard.*) I cannot say anything more than that it has varied from three to 19 years. I could get out an average any time, but I have no knowledge at the moment.

48,629. (*Mr. Shipley to Master Theobald.*) Do you know whether the increase of the work in your department is due to an increase in the number of insane people, or is it due to a greater variety of the work?—I think it must be, to some extent, due to the increase of the number of lunatics, but I think it is still more due to the fact that people are beginning to understand that it is rather dangerous to administer a lunatic's property without lawful authority to do it. I think that knowledge is gradually spreading. Another reason why the work has increased is, I think, that people are beginning to understand that it is not so expensive to do it. We have very much diminished expenses in the last 10 years. The cessation of inquisitions alone has very much diminished it, but beyond that we have succeeded in many ways in diminishing expenses.

48,630. The fact that you do not find so much to do in the Long Vacation as in the rest of the year is probably due to the solicitors rather than the fact that people do not go mad in the dog-days, as they are generally supposed to?—I think, undoubtedly, solicitors do not want to do more work than is necessary in the Long Vacation.

48,631. There is no evidence that there is a diminution of the number of people going mad just at that time of the year, is there?—No.

48,632. (*Mr. Matheson.*) You say in your memorandum that four of your staff have been called to the Bar and four are qualified solicitors?—Yes.

48,633. That is about half of the total staff?—Yes; the total is 19.

41,634. Have the other members of the staff had any legal experience?—No, I do not think so.

48,635. Do you find any great difference in efficiency between those who have that qualification and those who have not?—Yes, I think so. I think, from the point of view of personal assistance, the assistance you get from a man who has had legal training is very much more valuable than the assistance you get from the man who has not.

48,636. Would you go so far as to say that it is necessary that a man should have had legal training before he comes into the office?—No, I do not think it is necessary for all purposes of the office that you should have legally trained men. I think, for the purpose of taking accounts, you want common sense, but legal training is really not essential though it is useful.

48,637. Do you think that a man could ultimately rise to the capacity of drawing orders if he has not had a legal training before he comes in?—A man may have so much experience and be so intelligent that he really can do without legal training.

48,638. It is not absolutely necessary?—It is not absolutely necessary, I should say, but very important.

48,639. About the meetings with the visitors. I suppose the visitors do not report on all the cases they have visited? They do not go through all the list of cases?—At the Board meeting, no.

48,640. Would they report on their own motion, or only report on cases they were asked to report upon?—

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It is not exactly a case of reporting; they have already reported. They send their reports to the masters, and when you meet them you may ask the visitor: "Will you tell me about a particular case? What did you think of so-and-so and so-and-so?" You may discuss the case further and get explanations of the report; that is all that happens.

48,641. If a lunatic wants to make a complaint, is he bound to make it to the visitor, or has he any other means of forwarding a complaint to the masters other than through the visitors?—He does not ordinarily complain to the visitors at all. He writes to the masters, or he can write to the Lord Chancellor.

48,642. (Mr. Boutwood.) What are you supposed to do at these Board meetings? You have said that their chief advantage is incidental, but what is the formal supposition of them? What is the technical reason for having them?—They are held under the statute, but I do not know that that gives much explanation. I suppose it goes back to the old days of inquisitions, when masters were in the nature of visitors; their position was totally different in those days. They were, so to speak, superior clerks, and I suppose they attended as being possibly people who would themselves visit. It may have been that; I do not think there ever was very much sense in it.

The Hon. JOHN WILLIAM MANSFIELD, called and examined.

48,650. (Chairman.) You hold the post of Legal Chancery Visitor of Lunatics?—Yes.

48,651. How long have you held the post?—Four years last November.

48,652. There are three visitors in all, two medical and one legal?—Three.

48,653. What are the duties of the visitors?—They are statutory. To visit and personally see every lunatic so found by inquisition, generally called a Chancery patient—that is my own phrase—twice at least in every year, and every such lunatic resident in a private house at least four times in each year during the two years next following inquisition. In practice, patients remain on the four-visit list so long as the visitors think they should be kept under special observation, often for many years. To visit all such lunatics or alleged lunatics as the judge in Lunacy (including the Lord Chancellor and the masters) directs. To report to the Lord Chancellor (specially in certain cases); all reports to be kept secret, and destroyed at the death of the patient or supersession of the inquisition. To form a joint Board with the masters for mutual guidance and directions.

48,654. Those duties are statutory?—One or two words I have used are not strictly in the letter of the Statute, but those duties are statutory.

48,655. The requirements as regards visitation are laid down in Sections 183 and 184 of the Lunacy Act of 1890, and the requirements as regards the meeting of the Joint Board in Section 167?—Yes. Section 185 provides for reports, and Section 186 for the reports being kept secret.

48,656. We have heard already that the number of lunatics so found by inquisition is rapidly declining?—Yes.

48,657. That method of finding a person to be a lunatic has become practically obsolete now?—Perhaps that is putting it a little too high, because in contested cases sometimes members of the family have recourse to inquisition, and there are certain cases in which difficulties arise with regard to a lunatic's property abroad, or in the Colonies, in which case a foreign tribunal or administrative body will not recognise anything except an inquisition.

48,658. Is that specially the case as regards Australia?—It is the case, I believe, with regard to Australia or some of the States of Australia, and also the case with some, if not all, of the Canadian Provinces. We occasionally have a new case put on our books for that reason.

48,659. However that may be, we were told that there were only four inquisitions last year?—That may be.

48,643. (Chairman.) At present none of the visiting work is done by women?—No.

48,644. In your opinion, is it desirable that any of it should be done by women?—I think it would be most useful in many cases if we could have women visitors.

48,645. There must be many questions arising in connection with women lunatics that could be best dealt with by women visitors?—No doubt there are many questions of domestic economy, nursing, and so on, in which a woman's advice would be most suitable.

48,646. Even in the case of male lunatics women's advice might be useful?—I think so.

48,647. (Mr. Graham Wallas.) Would it be a convenient thing if there was a responsible woman official in your office among your other officials?—I do not know what functions she would perform there.

48,648. One to whom certain questions of that type could be referred; one who could advise on some of the patients?—It might be of some use. Of course, the great thing would be to have somebody who could go and see the patients. It is very difficult to find out by correspondence all details of that kind. You really want to see what is actually going on.

48,649. (Chairman.) Has the Board of Control any women as members, or as visitors?—I believe there are two lady members on the Board of Control.

48,660. The total number of persons who may come under your view is something like 5,000?—That I believe to be correct.

48,661. Will you give us the numbers you at present have on your books for the purpose of visiting?—We have 431 inquisition cases and 100 cases placed on the books for regular visitation which are not inquisition cases.

48,662. That makes 531 who all have to be visited twice a year, and some of them more frequently?—Yes, some four times. I may add that we sometimes pay an extra visit if we make a recommendation and are not quite satisfied as to whether it has been carried out, or if we feel special anxiety about a patient. I remember particularly last year paying a visit to a patient, as to whose care I was not satisfied, and to whom I paid several visits in the year, although she was not a four-visit case.

48,663. That is a matter of discretion?—Yes.

48,664. You have further special requests for visits from the masters or from the Lord Chancellor?—Yes, or from the Lords Justices, who are judges in Lunacy.

48,665. Do you ever get requests from the Lords Justices?—The medical visitors frequently do, or not infrequently, at any rate. One case arises which does not often arise now, that if a patient requires a jury the Lords Justices will ask for a visit in order to see whether the patient is really fit to comprehend what he is asking for. Again, if there is a question of *superseas* the Lords Justices will ask for a visit. *Superseas* is the means by which inquisition is got rid of.

48,666. What was the total number of special requests on the average of the last four years?—282.

48,667. And for dealing with those cases, what is the annual average number of visits paid?—The number of visits would be the same as the number of requests.

48,668. But I am dealing with the whole of the cases?—The average number of visits that we have paid annually, in the whole of our cases, is 1,371 for the last four years.

48,669. That is about 450 per visitor?—Yes, about that.

48,670. That, of course, involves a good deal of travelling?—It involves a great deal of travelling. The special requests lead to more travelling than the ordinary work, because it is more difficult to fit them in with our regular circuits. Special requests addressed to the medical visitors involve a great deal of additional travelling, because very nearly every medical request is an urgent request. We get a number of requests asking us, when in the neighbourhood, to visit a patient and see whether he is properly cared for; that can wait until we do a series of visits in the neighbourhood. Again, we

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very often get a request, saying, "Pending a summons for appointment of Receiver," and the question arises whether a patient is capable of managing his affairs. Of course, that has to be disposed of before the summons can be heard, and that means a special journey for a medical visitor, often into some remote part of the country, for the sole purpose of paying that one visit.

48,671. The average amount of travelling is something like 1,000 miles a week for the three visitors?—Yes, something like that.

48,672. A little over 300 miles per visitor each week?—Yes.

48,673. Have you any office work apart from the actual visiting?—No office work, except the attendance at the Board meetings.

48,674. Such office work as is necessary—the filing of reports and keeping your own lists and books, and so forth, is done by the clerical staff of the office?—Yes, and the secretary attends the office.

48,675. How is the work divided between the three visitors?—We divide the whole country into three districts, and we divide the Metropolitan area also into three districts. In each case it is the North, the West, and the Home. Roughly speaking, the Northern district comprises the area north of a line drawn from the Wash to the middle of Cardigan Bay. The Western, the area south and west of lines drawn from Warwickshire (inclusive) to Cardigan Bay and the Hampshire Avon; that is to say, it takes in the whole of South Wales and the West of England as far as Bournemouth. The Home district comprises the rest of England. The visitors visit in these districts in yearly rotation, so that in the course of three years each visitor becomes acquainted with all the patients on the regular lists; and, what is hardly less important, the patients become acquainted with the visitors.

48,676. So that this year you have one section of the Metropolis and one section of the three districts into which the country is divided?—Yes. This year I have the West, next year I shall have the Home, and the following year I shall have the North.

48,677. And the medical visitors follow in the same rotation?—Yes; Sir James Crichton-Browne follows me, and he will take the West next year.

48,678. Although you are the legal visitor and the others are the medical visitors, I gather there is no substantial difference in the duties which you perform?—No; there is no substantial difference, except this: that the medical visitors have to visit in cases where a medical visit is asked for. Occasionally it happens that a legal visit is asked for, but that is very rare. Theoretically and in practice, I put in a little more attendance at the office than the medical visitors do. When I am in London I generally go to the office, and they only go to the office when they have some special reason for it. We all go to the office at times in order to look into a patient's means, or, perhaps, to see a solicitor who is looking after a patient's affairs, or something of that sort.

48,679. That at once suggests the question, What is the reason for having a legal visitor?—Personally, I regard the work of the legal visitor as certainly the least useful of the three. Legal questions do arise sometimes. Patients sometimes ask legal questions; they write letters sometimes which involve legal questions. The Lord Chancellor sometimes sends down a legal question for a report—not often, but it happens occasionally.

48,680. If there is a legal question of any difficulty, would not that come to the master for decision?—It would, if it was in the course of his administration of a patient's property, certainly.

48,681. But all the patients whom you visit have their property under the administration of the masters?—Yes.*

* This answer is a little too general. The Lord Chancellor occasionally asks for a visit in a case where the master is not administering property. Such a case occurred a few days ago, and one in my own experience about three years ago. In that case the patient had written to the Lord Chancellor complaining of detention.—J. W. M.

48,682. Can there be any legal question with reference to their property which is not under the master's view?—Not with reference to their property.

48,683. What sort of question are you thinking of which may be outside the masters' view?—Sometimes they ask us whether they can make a will, for instance; that happens sometimes in the course of our visits. I had a most elaborate case to discuss the other day as to what could be done with a patient whom we could not find, and who had property in America. This was a question which came down from the Lord Chancellor, and it involved a good deal of research, and it was not a practical question really. A letter had been written, I think, to the Lunacy Commission and had been forwarded to the Lord Chancellor.

48,684. Was that property belonging to a person who was not yet under the control of the masters?—He was not so found, and no order had been made for the reception of his property, and he had come back to this country, having been detained in America, and somehow or other got free again; and I think he wrote to the Lord Chancellor saying that this property was in America, and that the American people would not set it free. Then the question arose as to how it could be got for him, and the difficulty became accentuated because the patient could not be found after he had written this letter. It did involve a considerable amount of legal research which fell upon me.

48,685. What happens if a legal question arises with reference to a patient in the district of one of the medical visitors?—If it was such a question as a medical visitor did not feel able to answer he would probably bring it up at the next Board meeting, and we should discuss it. Sometimes questions arise which involve a certain amount of not exactly the hearing of evidence, because we have no power to administer an oath, but what amounts to the same thing. You have sometimes to report upon questions of fact which a legal visitor is supposed to have more experience in determining than a medical visitor might have. Again, I have heard Master Theobald say that in some cases he would rather have a legal man's report than a medical man's. Medical men do not always take quite the same view of the propriety of detention as a legal man takes. There is a certain amount of conflict between the legal mind and the medical mind as to the propriety of detaining a patient. The legal mind thinks more about the liberty of the subject, and the medical mind is perhaps apt to think more about the future health of the subject and the welfare of the race. They approach the question of discharge from somewhat different standpoints sometimes.

48,686. Does not that make some difficulty, if in one year you have the patient reported on from the one point of view and in the following year from the other point of view?—It might make a difficulty, but then you see we have always got the Board meetings at which we discuss these things. I could give you an instance; I was not really concerned in it, because the difference of opinion was between the two medical visitors. We have recently got a patient removed from Colney Hatch Asylum who is now at any rate in the enjoyment of liberty, although, I believe, he is not formally discharged yet. In that case there was a difference of opinion between my two colleagues as to whether he should have his chance or not, and after a good deal of discussion at the Board it was decided that we ought to advise that he should have his chance.

48,687. That is to say, in a case of doubt the three visitors meet with the two masters, discuss the case all together, and compare notes about it?—As a matter of fact that particular question was not discussed with the masters, who had left the Board. The masters' intervention at the Board is rather personal. They come into the Board meeting with the cases relating to their patients that they want to discuss with the visitors, and when they have disposed of those cases they go back to their work upstairs as a rule. Then the visitors go on discussing among themselves cases on their list which they have been visiting in rotation.

48,688. In your work are there often questions as to whether a man should still be detained or not, or does the great majority of your work relate to

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the material circumstances of the patient, the dealings with his property, the arrangements for his maintenance, and so forth?—The great majority of the work relates to the property of the patient and his maintenance, comfort, and so forth. But, of course, it is very common for patients, when we visit them—particularly in asylums—to ask for their discharge, or to ask for a transfer to another asylum, or for a transfer into private care, or something of that sort. Perhaps they ask for one thing and we feel able to advise another; we say: “The patient is not very happy here; we might try him “in another asylum,” or “He is not happy in an asylum, “and he might be tried under private care.” Such questions arise very frequently, but not so frequently as the question whether he should be allowed drives in a motor-car, or something of that description.

48,689. So the questions you most frequently have to deal with would be largely, I suppose, questions of common sense, knowledge of the world, and knowledge of people?—Yes.

48,690. And partly, also, medical as regards the effect of certain treatment on the patient, the probable development of the disease, and so forth?—Certainly.

48,691. In fact, for dealing with that part of your work you have, to some extent, to acquire a medical point of view as well as a legal point of view?—You do, and one hopes that one does, to a certain extent, acquire that in the course of one's experience. Speaking for myself, as I go on with my work, and get more familiar with the sort of cases that I deal with, I feel a little more competent to help in that direction.

48,692. Looking at the matter entirely apart from personal questions, if you were arranging the system *de novo*, do you think the system of two medical visitors and one legal visitor is the right one, assuming the three were required?—Speaking quite frankly, I should say that the legal visitor might be dispensed with; but at the same time I hear patients speak so well of my predecessor that I do not think I should say that it is an office which should be lightly dispensed with. I think you could dispense with it, perhaps.

48,693. Who was your predecessor?—Mr. Palmer.

48,694. (*Mr. Boutwood.*) When you say “dispensed with,” you mean a medical officer should be appointed instead?—I think you would require to have a medical officer appointed instead.

48,695. You do not mean simply to abolish the post?—It is really a question upon which I do not think my opinion, perhaps, is complete. I very highly appreciate the value of my medical colleagues, and I do not know what they would say as to the assistance they may get from having a legal colleague; but I have often felt that my work was really, comparatively speaking, of small importance compared to theirs, and that they could really get on in most cases quite as well without me.

48,696. (*Lord Mersey.*) I do not quite understand that. On whom would you throw the burden of paying the visits that you pay?—You would have to have another visitor. I do not think you would save the country a visitor.

48,697. (*Chairman.*) The work could not be got through by two visitors?—No, I do not think it could.

48,698. To whom do you report?—We report to the Lord Chancellor in every case. In cases of special requests we send a report direct to the master.

48,699. When the request comes from the master?—Yes, but in all cases that report also goes to the Lord Chancellor.

48,700. In the inquisition cases, do you report solely to the Lord Chancellor?—In those cases solely to the Lord Chancellor.

48,701. And the master does not see the report unless he asks for it?—No; there are exceptions. The committee of the person is under the direction of the visitors, and, therefore, if we wish a patient to be removed, or an expenditure to be incurred, which his allowance admits of, we give a direction to the committee of the person, and the report upon which that is based is sent to the Lord Chancellor, and does not go to the master at all. On the other hand, if we want to recommend that the allowance of a patient should be increased, that involves the master giving a direction

to the committee of the estate, who is not under our direction, and, therefore, we have to send our report to the master as well as to the Lord Chancellor, although he has not asked for one.

48,702. That is to say, where your recommendation requires any action by the master, you send a duplicate copy of the report to the master?—Yes. In those cases we should send the report to the master instead of sending the report to the committee of the person, or, perhaps, as well as sending it to him.

48,703. Except in those cases, the master does not see the report sent to the Lord Chancellor unless he asks for it?—No, he does not see the report sent to the Lord Chancellor unless we wanted him to do something for us.

48,704. In the cases which you visit every six months, is your report of any length, or some such report as “the patient is going on satisfactorily”?—In a great many cases we do not make a special report. We do not do so unless we have a recommendation to make, or unless there is some special reason for calling attention to the patient's state of health. For example, the other day I went to visit a patient, of whom the official solicitor is the committee. The patient had recently moved, and I knew the official solicitor would be glad of a report as to what I found. It was quite satisfactory, and as far as the Lord Chancellor was concerned, I should not have made a report; but I did make a report, because I wanted the official solicitor to know that everything was satisfactory. In the ordinary case, when everything is satisfactory, we have a printed schedule in which we state that we have visited the following patients, and we find that they have been properly maintained, having regard to their means and the schemes for their maintenance, and then we send in that at three-monthly intervals to the Lord Chancellor. It used to be the practice to make a special report in every case, but that was waived a good many years ago.

48,705. Do you think the relations between the visitors and the masters are satisfactory as they are at present, or could they be improved?—I think the relations between the visitors and masters are most satisfactory. The masters are very approachable, and I hope that we are really of considerable assistance to them. I do not see how they could get on with their work without us.

48,706. The point which suggests itself is, whether the relation could not be made an even closer one. As regards the property of the persons whom you visit, you, I understand, have no executive powers?—No.

48,707. You visit and report and recommend?—Yes.

48,708. And the carrying out of those recommendations depends upon the masters?—That is so.

48,709. Except in cases where you are reporting specially to the Lord Chancellor, and in those cases, I presume, if the Lord Chancellor thought anything should be done, he would send the case to the masters?—As I say, if our report involves the necessity of anything being done by the master, it would go to the master, because we should send it to him.

48,710. Even in the cases where the Lord Chancellor has asked for a special report?—Then no doubt he would, if that involved some action on the part of the master, send it to the master.

48,711. So, if any action has to be taken upon the report if it relates to property, it has to be done by the master?—You may go further than that. If a committee does not carry out the suggestions of the visitors, the visitors would go to the master to ask him to put pressure upon the committee, and, if necessary, to remove him. The visitors have really no executive powers, I think I am right in saying, even over our own patients. We have no real powers, although, in effect, the committees always carry out our recommendations; but we can only enforce our requests by going to the master to have the committee removed.

48,712. You are the eyes and ears of the masters, but the executive power rests with the masters?—That is so.

48,713. The point that occurred to me was, that where you have those two functions—the inspecting and the directing functions—as a rule the inspecting

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branch comes under the direction of the executive branch?—Yes.

48,714. In the present case, the inspecting branch is entirely independent. The masters may make requests for inspection, but they have no control over your actions and no authority to direct in what order you shall do your work, or anything of that sort?—I think really the section is almost wide enough to give them that authority. It says: "The Chancery visitors shall also visit such persons alleged to be lunatics, and shall make such inquiries and reports in reference to them as the judge in Lunacy directs; and, at the expiration of every six months, they shall report to the Lord Chancellor." I am not sure that the Act provides for it, but in practice we follow the form of the request which comes down from the master. If the master requests that we should visit when in the neighbourhood, we postpone until our own convenience. If the master asks for a visit at earliest convenience, we go as soon as ever we can. It is the master who really settles whether there is to be an immediate report or not.

48,715. You follow his instructions or requests in that respect?—They specify them in turns, which vary according to the urgency of the case. Sometimes they say, "As soon as convenient," sometimes "at earliest convenience," sometimes "there is a summons pending," and it is requested that the visitor will visit soon, in "order that the summons may be disposed of," and then we comply with that request.

48,716. Would there not also be some advantage from the other point of view if you formed part of the same organisation as the masters, and so carried their executive authority?—I should like to consider that, I think, before giving an answer. It would depend upon what executive authority you intended to extend to the visitors.

48,717. What I mean is this: You can give advice and your advice may be followed, but if it is a question of saying, "Do this," it has to go to the master, and a letter has to be written to the receiver or the solicitor, or whoever it is, saying that this must be done?—Yes.

48,718. Would not it be convenient if, in all minor matters at any rate, you could say with the delegated authority of the master, "Do this"?—Yes, I think it would. We do that to a certain extent, and perhaps it would be well if that could be extended. I mean, one visits in a special case and makes a recommendation, and then there is a little difficulty about carrying it out. Then the solicitor makes an appointment to see the visitor, and then the visitor has to say: "You may have to go to the master to get something further done."

48,719. That is the sort of inconvenience which it struck me might arise from the present position?—Yes. I think perhaps it would be a good thing if we could have a little authority to have our recommendations carried out.

48,720. The visitors are appointed by the Lord Chancellor?—Yes.

48,721. Is there any statutory qualification?—There is a statutory qualification for the legal visitor—a definite qualification. The qualification for the medical visitor is much more indefinite. The legal visitor has to be a barrister of five years' standing. I think all that is required of the medical visitor is that he should be a fit person, being a medical practitioner in actual practice. The barrister has to be a fit person, being a barrister of not less than five years' standing.

48,722–31. (*Lord Mersey*.) What is a medical practitioner?—He is a person duly registered under the Medical Acts.

48,732. (*Chairman*.) In fact, have the medical visitors usually been men with experience in charge of asylums or similar posts?—Yes. I have not gone back far. In the case of my colleagues, Sir James Crichton-Browne was medical superintendent of the Crichton Institute, and Dr. Nicolson, my other medical colleague, was medical superintendent at Broadmoor Asylum. Then there was the father of the late Mr. Justice Bucknill; I feel sure he had an asylum experience, but I cannot say where.

48,733. (*Lord Mersey*.) The Lord Chancellor appoints him?—Yes.

48,734. He is very unlikely to appoint a man who has not, nominally at all events, proper qualifications?—No. I have not armed myself with the names of the predecessors of my colleagues, but from what I have heard them say, in speaking of them, I feel justified in saying, that usually the appointment is made from among asylum superintendents.

48,735. (*Chairman*.) There is no age limit for retirement, at present?—No.

48,736. Do you think it would be desirable to fix an age limit?—I cannot say that I do. If an age limit had been fixed in the present case, the public would have been deprived of the services of two people whose services are very valuable. Sir James Crichton-Browne is considerably above the age of 65, which is usually the age for retirement, and Dr. Nicolson is also above the age. I may say as regards Dr. Nicolson, that so far from his showing any incapacity, he is still constantly employed by the Home Office in cases of life and death, which of course is not a permanent appointment, and they can employ anybody they like.

48,737. The amount of travelling must be somewhat exacting as years advance?—Yes. I point out in my précis that it affords a guarantee that a man will not go on endeavouring to do his work when his health has begun to break down. As I have also pointed out, there are cases of mental failure unaccompanied by physical failure, and there is ample power to deal with that under the Act, because a visitor is not irremovable; he can be removed either for misconduct or neglect of his duty or for incapacity.

48,738. The office staff is very small?—There are three clerks and the secretary.

48,739. The secretary is not a Civil servant?—No. I may say that considerable economy was effected when a change was made, and a secretary was appointed. There was a chief clerk who received, I believe, 600*l.* a year, or at any rate a materially larger salary than our present secretary receives, which is 300*l.* a year.

48,740. Then he is rather in the position of a private secretary. Is that the nature of his work?—I suppose that is so. He is appointed by the Lord Chancellor. As a matter of fact our present secretary was in the Lord Chancellor's office as a private secretary before his appointment.

48,741. And are the other clerks appointed also by the Lord Chancellor?—Yes.

48,742. Their work consists in keeping records and books and files of reports, and so forth?—Yes, and answering formal letters.

48,743. General clerical work, not involving much responsibility?—Purely clerical work.

48,744. In their case there is no age limit for retirement?—No.

48,745. Are any of them past the age of 65?—Two of them are.

48,746. Do you find them perfectly efficient still?—One of them is very efficient. I do not know that I could say as much for the other.

48,747. Do you see any reason why the general Civil Service rule should not apply to that purely clerical staff?—No, I cannot see any reason why it should not.

48,748. You suggest some economy of labour might be effected by the use of typewriters?—Yes.

48,749. Is there a great deal of copying?—There is. The average number of special reports sent in by the visitors to the Lord Chancellor is 372. Every one of those has to be copied, and some of them are of considerable length.

48,750. And some of them are in duplicate, if they are reports that go to the master?—Yes, some of them are in duplicate.

48,751. Is a copy also filed in the office?—What happens is this. In regard to patients that we visit regularly, when we make a report we put it down in a notebook and that is copied in the office, and it goes to the Lord Chancellor. If it goes also to the master a duplicate copy would have to be made, but where the master sends a special request we write our report on paper in order that it may go to him at once. A copy

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is made of that. The master keeps the original. The copy is sent to the Lord Chancellor, and all the copies that go to the Lord Chancellor come back to us and are filed in the office, so we do not require to have a copy made to file in the office, the one that goes to the Lord Chancellor being filed in the office. There would be one copy in every case, and in some cases two.

48,752. There would be economy of time and money and also convenience in using a typewriter?—Yes; our secretary has gone so far as to say that he thought he could do with two clerks if one of them was a typist.

48,753. You have a shorthand writer?—Yes, but he does not do any shorthand writing.

48,754. Why not?—I believe it came about in this way. He was appointed as a shorthand writer, and he used only once a month on the day following board meeting day to take down in shorthand the secretary's letters to committees which arose out of the business of the board. Then I believe it was on account of his sight failing, or threatening to fail, that the late secretary, who is now secretary to the Lunacy Commission, relieved him of the duty of taking down his letters and wrote his own letters in longhand, and since then he has not done duty as a shorthand writer.

48,755. Does he do duty as an ordinary clerk?—Yes, he does a great deal of work. He copies all the special reports on special requests, amongst other things, and these occupy a great deal of his time.

48,756. But if you had a shorthand writer and typist, that copying would be spared?—Two of the clerks share that duty between them, one copying the reports from the notebooks, and the other the reports from the paper. If we had a typewriter there would be considerable economy in labour there.

48,757. (*Mr. Matheson.*) Is there any work in the office for which a man of the quality of a second class clerk is required?—I think I might say, No, to that, because, in point of fact, as to our three clerks, the one who was appointed as shorthand clerk is nominally a temporary clerk, although he has been with us for 18 years, and, I think, each of the others began in the same way. I do not think either of them have ever qualified in any way as second class clerks, but the senior clerk, when he became the senior clerk, became a second class clerk.

48,758. Which is really promotion?—Which is really promotion.

48,759. Is your office contiguous to that of the masters?—Immediately below it. The masters' office is up one flight of stairs.

48,760. Are the visitors pensionable officers?—Yes, I believe we are on the ordinary Civil Service basis.

48,761. I gather that, on the whole, you think medical visitors are probably more useful than legal ones, but that there is some advantage in occasionally having an independent opinion which is not confined to the profession of medicine?—That is my opinion, and since I replied to the Chairman it has occurred to me that not infrequently a patient says to me: "You are the legal visitor, are you not?" and I say: "Yes"; and he says: "You are the person I want to see." I do not know that it does him much good, but it gives him some satisfaction.

48,762. Supposing there were three medical visitors, would it be possible to provide for an extra opinion of a legal kind in some other way—in a more occasional way, do you think?—It would be possible to provide for a legal opinion being obtained, of course, but you would not get your opinion from a man who knew the patients, and was familiar with the work of the officers, and the work that was being done.

48,763. The effect is that the present arrangement really gives the lunatic the opportunity of getting legal advice or legal conversation from a person with whom he is familiar and whom he knows?—That is true.

48,764. (*Mr. Shipley.*) How many establishments altogether do the visitors visit during the year?—In every half year we visit 68 asylums and 128 private houses, in the course of visiting the patients on our books. A few of the private houses have to be visited twice in each half year. So that in each half year we pay rather more than 200 visits to separate establishments in visiting patients on our books—say 410 to

415 per annum. The special requests, which I have stated average 282 per annum, each entail a separate visit, with the exception of a small percentage which can be made to fit in with our ordinary visits to asylums. The total number of separate visits to establishments would thus work out approximately at about 675.

48,765. (*Mr. Coward.*) How many patients do you visit in one day?—I think at Virginia Water, which is a large mental hospital, we have, perhaps a dozen patients, or ten, and we can visit those ten or a dozen persons in one day; but on another day it takes the whole of the day to visit one.

48,766. There is a distinction drawn in the list we have before us between the visits—1,371 in one case, and about half that number in the other case?—Those are the numbers of visits to patients: not visits to different establishments.

48,767. (*Mr. Shipley.*) Is your office in London in the Law Courts?—Yes.

48,768. How do you decide, when a case comes up, whether you shall go or the medical visitors go?—It is decided in this way: We have our districts; if the case is in the west, say, I go to it, unless there is a request for a medical visitor, in which case one of the medical visitors will go to it, and they visit out of their districts in turn.

48,769. Then you are pretty constantly in the train?—Very frequently.

48,770. Do all the visitors live in London?—Sir James Crichton-Browne lives in London. Dr. Nicolson lives in the country. I live in the country part of the time, and in London part of the time.

48,771. It was suggested this morning that it might be an advantage if the visitors were done away with, and local people were appointed visitors from time to time. Do you think that that plan would work at all well?—It would work in many cases, no doubt, but I think there are reasons why local people are undesirable. You are more free from prejudice, for example, when you go from the Central Office, and when it comes to a question of determining whether a patient is fit to manage his own affairs you want the very best man you can get.

48,772. Has your business as visitor increased much in the last 10 or 15 years?—Looking at the last four years, since I have been a visitor, I think it has been about stationary. I do not suppose there has been very much diminution in the last four years in the number of Chancery patients, but if there is a diminution, it is balanced more or less by the number of special visits.

48,773. Are you at all acquainted with the management of this sort of thing in any other country besides England?—No, I am not.

48,774. You do not know whether in the United States, or, in normal times, in, say, France, the lunatics are better or worse looked after than ours?—I have met with lunatics who, I think, have said that they were both better looked after and worse looked after in foreign countries, but I cannot really say with any knowledge on the subject. As to how we divide our work, I might say that I undertake a certain amount by arrangement with the secretary. If I find that one of the medical visitors is getting over-pressed, I say: "Send me something of his I can go to, which may be 'on my road,' and so on. We work it for mutual convenience as far as possible.

48,775. (*Sir John Kempe.*) I see you say in your notes that the staff for the masters' office is recruited from a higher class than that of the visitors, but the scales of salary are the same in both offices?—I am speaking from information furnished to me by our secretary, and also to a certain extent from observation, because one is brought in contact with the masters' clerks occasionally. They are mostly either solicitors or barristers I am given to understand; their work is more administrative, I understand, than ours. I really do not know about the internal working of the masters' office, but that is the information given to me by our secretary. I asked him particularly with reference to the suggestion as to amalgamating the two staffs, and his answer was: "Well, their work is different from 'ours, and they have a higher class of clerk to do it."

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48,776. Your clerks are not qualified as barristers or solicitors, as the others are?—Our clerks are not qualified in any way.

48,777. (*Mr. Coward.*) I do not understand that you have any office hours or do attend at the office, except that you come down when you are in town?—No; I was there this morning, for instance. Sometimes there is something which the secretary wishes to see me about, or there may be a letter he wishes to consult me about, and so on. Sometimes one finds there is a message from the master, but it is purely voluntary work as far as I am concerned.

48,778. Your work consists really in paying visits?—Yes.

48,779. What is the average number of visits that you pay in a week—I mean going to different places?—I think really I am actually travelling about three days a week during term time, sometimes two, sometimes four; but I should think on the average I am travelling about three days, or, if not travelling, one may be going about London paying visits. Then we do not pay much regard to term time, because we pay our visits in vacation too.

48,780. I was going to ask you that question. When you are travelling you cannot tell how long your journey may take you; that is to say, if you had to go down to Bath, for instance, it would take you many hours?—Yes.

48,781. On the other hand, if you had to go to Virginia Water, probably the whole thing would take half a day?—Yes, that would be so. Very likely, then you are able to put in another visit the same day.

48,782. Do you have no vacation?—We have a vacation in this sense, that we do not have Board meetings in vacation. We regulate our own work to a great extent.

48,783. The masters are away for the whole of the vacations?—Yes, but they do a certain amount of work even when they are away. It is not often that I get a request during vacation, but the medical visitors do sometimes. I have to see to a request sometimes.

48,784. Do you do any of these visitings in vacations?—Oh dear, yes. Personally I have generally arranged so that I do not do any visiting in September, but that is because I have got through my work before.

48,785. The actual amount of travelling that you do is not at all excessive. A man who lives at Brighton and comes up to town four days a week would probably do more travelling than you do?—Yes.

48,786. And do his day's work besides on each of the four days?—But he does not have to wait about at junctions or jump into motor cars. It is not only the travelling, but when you have got to the end of your day, then you very often have to write reports and things of that sort. You have not done your day's work when your travelling is done, and you are sleeping away from home so much, too; you are rarely sleeping two nights in the same bed.

48,787. Yes, that is so; but I thought I understood you to say that your reports consisted of notes made in your notebook at the time you made your visit?—I make notes in a little pocket-book in pencil, but we have what we call a report-book, and I write that up if I can the same evening, and sometimes I put it off to a day or two afterwards.

48,788. I suppose you never had the enjoyment of having a shorthand typist?—No.

48,789. You do not therefore know whether the shorthand typist would do the whole work of your office except that of the secretary?—I do not think he could do that, because so much of the work consists of keeping books.

48,790. Would not the secretary do that? You have a second class clerk, a third class clerk, and a shorthand writer. If you had a shorthand typist, I was wondering whether he would not do the work of the three?—Then you suggest that the secretary should keep the books. There are a considerable number of books to prepare. Our instruction-books, for instance, require a good deal of preparation and transcribing. They could not be done by typing, and there are records of incomes and there are a number of ledgers.

48,791. What office hours do those men keep?—Their office hours are from 10 to 4—the usual hours in the Law Courts.

48,792. And what vacations have they?—The two senior clerks, who are Civil servants, divide the vacations between them. The third clerk does not come in vacation unless he is specially required.

48,793. (*Mr. Graham Wallas.*) Do you pay your visits with or without notice?—The rule is to pay visits without notice; on the other hand there are exceptions. We have a good many patients who are out a great deal; sometimes out in their motor cars. I have been to an asylum at Exeter and found that a patient had gone to Newbury Races. In those sort of cases, if we are satisfied that the patient is properly looked after, we sometimes give notice. Sometimes patients particularly ask for notice because they say they are so upset by our visits unless they have time to prepare for them.

48,794. You told us that what was essentially required in your work was common sense?—Yes.

48,795. A kind of fresh common sense in dealing with those rather difficult questions?—Yes.

48,796. Would you say that a visitor who had developed crankiness and faddiness might do an almost unlimited amount of harm?—Yes, I think he might.

48,797. Looking at the world generally, crankiness and faddiness are sometimes the results of old age or they come with old age?—That is so, no doubt. I referred to my predecessor. I have never heard him spoken of otherwise than affectionately by patients. I have really been quite touched sometimes by the way they have spoken of him.

48,798. But a cranky old gentleman who is greatly beloved by lunatic patients may nevertheless be a bad visitor?—He might be; but I certainly should not say that of my predecessor, because it is not only the lunatic patients who so spoke of him, but people who look after the lunatics.

48,799. Is your predecessor dead?—No.

48,800. What age was your predecessor when he left?—I think within a little of 70—70 or 71. His health broke down and he had to give it up.

48,801. Is it the duty of anyone to call the attention of the Lord Chancellor to any defect of efficiency in a visitor?—No, it is nobody's definite duty.

48,802. The visitors are usually appointed at a fairly advanced age?—Yes; of course there are exceptions. Sir James Crichton-Browne was not at an advanced age when he was appointed.

48,803. And they get a pension based upon the number of their years' service?—Yes.

48,804. So normally they hardly ever stay on after the full 40 years, or till the full 40 years?—They get a number of added years. You do not have to serve the full 40 years for a pension.

48,805. But unless they become very old they do not normally stay till even their full years, including the added years?—No, I should think not.

48,806. Do you realise that that arrangement does constitute a very great inducement to a man to stay on year after year when every year makes an addition to his pension?—Yes, I see that.

48,807. Would you agree that that is a reason why a man holding that kind of post should have an age limit?—Yes, it is a reason, certainly; but I should not be disposed to agree that it might not be counter-balanced by other reasons.

48,808. Two of your three clerks are 65 years of age?—Yes.

48,809. One of them was appointed at the age of 46?—I do not know what his age was when he was appointed.

48,810. Do you know why he was appointed to your office?—No, I cannot tell you why. He was in the Post Office originally. I do not know who appointed him.

48,811. The shorthand writer put down here, you told us, became too blind shortly after his appointment to write shorthand?—His eyes threatened to give way, so I am given to understand.

48,812. In other departments of the Government a man who cannot do his work gets a compassionate

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allowance, or something of that kind. Was that ever suggested in the case of the shorthand writer here?—No, because Mr. Dickinson dispensed with his work as a shorthand clerk, and he has been able to fill up his time in other ways.

48,813. Then it was arranged that he should write in longhand what he had hitherto written in shorthand?—No, he only did shorthand work on one day in the month.

48,814. You say the shorthand writer does not come at all in the Long Vacation?—No.

48,815. He is down here as receiving 2*l.* 10*s.* a week. Is that paid during the Long Vacation?—Yes, I think he gets his 130*l.* a year.

48,816. In the office there is no woman at all?—No.

48,817. Do you think that in some cases it might be a convenience that there should be a woman about the place?—Do you mean in the capacity of visitor?

48,818. No, I am thinking first of their being actually in the office. I suppose patients sometimes wander into the office?—Pretty rarely.

48,819. At any rate women would do the shorthand and typewriting very well as an official?—Yes, they would do that very well.

48,820. Have you considered whether it would be a convenience to have a lady doctor, for instance, among the visitors?—I have not considered the question. I do not feel certain that a lady doctor would command the same confidence.

48,821. Do you know whether in the office there is a time-book?—I do not think there is. I am not aware that there is.

48,822. Whose duty would it be to call the attention of the Lord Chancellor to the fact if one of those old gentlemen of 65 was not turning up with sufficient regularity?—I suppose it would be my duty.

48,823. Do you know in fact whether they turn up regularly?—Yes, very regularly.

48,824. You told us that in a normal week you do about three days' travelling?—I should say that is about right.

48,825. For how many weeks in the year does that go on?—I reckon that the legal year is about 36 weeks, and I should think I am doing that travelling for about the 36 weeks and some weeks in vacation, too—pro-

bably three or four weeks in vacation—so probably it would be about 40 weeks in a year.

48,826. So you are travelling about 110 days in a year?—Yes, 110 to 120.*

48,827. Have you any really laborious duties on the days you do not travel?—No. Sometimes one is writing reports on those days.

48,828. It may happen that you write up a report?—Yes.

48,829. But, normally speaking, on the other days of the 365 your duties do not exist?—Perhaps I ought not to say they do not exist, but they are not onerous, certainly. One has a certain amount of correspondence. One gets letters from patients, and one writes up reports, and so forth.

48,830. Do you think, if a leaving age was arranged so that one could assume that every one of the visitors was of normal bodily health, that that number of 110 to 120 working days might be increased?—I should not like to be too closely pinned to those 110 or 120 days, but possibly they might.

48,831. (*Lord Mersey.*) What is your travelling? I see you say in your précis that the average number of miles travelled by the visitors was 1,000 miles a week. That means the whole three travelled 1,000 miles a week?—Yes.

48,832. So you would travel about 330 miles or so?—Yes. I think in justice to the other visitors I ought to say that they travel more than I do, because, as I have already pointed out, they get the special medical requests which involve special journeys to see single patients, so a certain deduction should be made from my mileage and added to theirs.

48,833. Are these people that you visit gathered together in particular spots—in an asylum, for instance? Do you see several on the same day?—Yes, in the asylums we do. I dare say our regular patients are about equally divided; that is to say, the inquisition patients between the asylums and the private cases; but the bulk of our journeying is going to see private cases.

* In making this estimate I was thinking of the work in my present district—the Western. Some addition should be made for the Northern district, and a much larger addition for the Home district. It ought not to be taken as applying to the Medical Visitors. See my answer to Q. 48,832.—J. W. M.

Mr. STANLEY LEATHES, C.B., called and examined.

48,834. (*Chairman.*) You hold the post of First Civil Service Commissioner?—Yes.

48,835. How long have you held that position?—Since the beginning of 1910 as First Commissioner. I first became a Commissioner in 1907, and previous to that I was secretary and began to hold that office at the end of 1903.

48,836. As you are aware, this Commission is dealing with the legal departments. Will you tell us which appointments to the legal departments come before the Civil Service Commission for certification?—Messengers and ushers and officials of that kind are certified by us just like messengers for other departments. Besides them there are practically only the clerks in the various branches of the Supreme Court of Judicature, and those in the Land Registry, which I suppose is not a branch of the Supreme Court.

48,837. You have nothing to do with the higher appointments, such as masters and registrars?—Nothing at all. I cannot remember any office of that kind for which we certificate.

48,838. In the case of the clerks, what do you require before you issue your certificate?—The clerks are nominated, as you know, and we receive the nominations as a rule from the secretary to the Lord Chancellor. After nomination in the ordinary course we proceed to examine them, under the scheme which I think has been laid before you, to ascertain that they are within the limits of age, and that they are in sufficiently good health to afford a reasonable prospect of service for a long time.

48,839. For that purpose do you require a medical certificate?—Yes. Also we get evidence as to character.

48,840. In some cases are they exempt from examination?—They can only be exempted from examination with the consent of the Treasury on the application of the Lord Chancellor, when the use of Clause 7 is granted; and in that case, although the use of Clause 7 may be granted, we should not exempt them from examination unless certain conditions were fulfilled. Those conditions are: (1) That they shall be not less than 25 years of age. (2) In the first class the candidate can be exempted if he is a solicitor of five years' standing in actual practice at the time of nomination. (3) In the second class exemption is allowed when the nominee is an admitted solicitor or a managing clerk in actual employment for the previous five years.

48,841. (*Mr. Coward.*) The first one does not include the managing clerks?—No, it does not.

48,842. (*Chairman.*) That is appointment direct to the first class?—They are very rare. I am not sure that there have been any. In the third class exemption can be allowed only when the nominee is a *bona fide* clerk to a solicitor at the time of nomination, in actual employment for seven years, and not less than 25 years of age. In addition, barristers of five years' standing in actual practice may be exempted from examination if they are nominated for the first class clerkships; and for the second class clerkships, candidates who have been for not less than 10 years clerks to one of His Majesty's judges or a barrister of the rank of king's counsel.

48,843. In fact you may say generally that the conditions of exemption are that the candidates should be over the age of 25, and have a certain degree of experience in the law in one capacity or another?—That is so.

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48,844. The amount of that experience varying according to the class to which he is to be appointed?—That is so.

48,845. I see, from the figures you have put before us, that the number of exemptions from examination is comparatively small compared with the number of those who are examined?—Yes, it is.

48,846. Taking third class clerkships, you give 186 who were admitted after examination, and 43 who were exempt from examination?—That is right.

48,847. You have also been good enough to give us a very interesting return* showing the previous experience of the persons appointed in the last 15 or 16 years, and other particulars about them?—Yes.

48,848. I gather from the return, as might be gathered also from the number of exemptions from examination, that it is only in the minority of cases that the candidate has had previous legal experience?—That is so. Very considerably less than one-half have had any legal experience beforehand.

48,849. Taking the cases where a candidate has had five years' experience or more as a clerk to a solicitor, or in some other legal work outside the public service, I make out that there are 61 who have had such experience to 172 who have not had such experience. Would you agree to those figures?—Those, no doubt, are right, as taken from our return. I have not taken out the particulars myself, but I am quite prepared to believe that that is about the proportion.

48,850. That is to say, roughly, about one-quarter only have had legal experience to any extent?—Legal experience to matter. There are a certain proportion of others who have had some trifling legal experience of some kind or other.

48,851. I make it that there are about 30 others who have had experience shorter than five years, and generally in those cases some other occupation has intervened before appointment?—Yes.

48,852. So, taking what you may call substantial legal experience, the proportion is not more than one-quarter?—That is so.

48,853. As regards the offices to which those appointments are made, it would seem, from the particulars you have been kind enough to give, that, especially in the Principal Probate Registry, and the Central Office, and the Admiralty Registry, candidates are appointed without previous legal experience?—Yes. A good many of the clerks in the Land Registry are appointed to the second class. That is the only substantial number of appointments direct to the second class, and they, so far as I can make out, are pretty nearly all barristers, or persons of considerable legal experience.

48,854. One may infer from that, that the appointing authorities have not considered previous legal experience to be by any means an indispensable qualification for appointment?—That is a reasonable inference.

48,855. The examination is, I think, of a very elementary character?—Yes, very elementary. We have been asked to make it more elementary often enough, but we have declined to do that.

48,856. Do any substantial number of candidates fail to pass it?—Yes, I should say so. I am not quite sure how many fail ultimately, but many certainly fail once or twice.

48,857. They are allowed another try?—They are always allowed another try, if they are re-nominated.

48,858. The examination consists, practically, of spelling, writing, and arithmetic, with the addition of some digesting of returns?—Yes, and indexing, and English composition. It is not a very severe test, but it is a test which goes a little beyond reading, writing, and arithmetic.

48,859. It has been suggested that open competition should be applied for recruiting these appointments. What is your opinion on that suggestion?—I, personally, can see no objection. Of course, I do not know anything about the inside of the law courts, and there may be reasons which make it necessary that these persons should all be nominated, but they have never been communicated to me or to my department.

48,860. So far as you can judge from what you see of the persons who come to be certificated, do they differ materially either in extraction or education or personal qualities from candidates who enter the public service by, say, the examination for the second division?—If you compare them with candidates for the second division, I should say some of them, undoubtedly, come from social classes higher than those which you would expect to find competing for the second division; others, again, come from classes which are lower than those which you would expect to find competing for the second division. If you compare them in bulk, from the point of view of the instruction that they have received, which is the only real test we can apply to them, I should say that they were not only inferior to the candidates for the second division, but to the candidates for assistant clerkships; that is, taking them in bulk; but there are exceptions, no doubt.

48,861. Taking them in bulk, in educational qualifications they are inferior to the assistant clerk class?—Yes; I should say so.

48,862. Would you expect that the result of recruitment by open competition would be to raise the standard of education and intellectual attainment?—I should say so, certainly. The salary is pretty good, even in the third class; they begin at 100*l.* a year, which is an inducement to a great many people.

48,863. That is a better commencing salary than in the second division?—It is; and much better, of course, than the assistant clerks' salary, and the maximum of the third class is also better than the maximum of the assistant clerk as at present.

48,864. And there are also prospects of promotion to the higher classes?—There are prospects of promotion.

48,865. It has been suggested to us by some witnesses that previous legal experience is of great importance, not only for the particular knowledge that a candidate would have acquired, but also as giving a legal outlook. From that point of view it has been suggested that you might have competition amongst persons who have certain defined legal experience. Do you think that that is a practical suggestion?—I find it rather hard to imagine how such experience could be defined. We have already one condition laid down, without which exemption from examination is not to be granted, namely, that a candidate should have served for seven years as a *bona fide* clerk to solicitors. We find it very hard to say what is a *bona fide* clerk to solicitors. Is an office boy a *bona fide* clerk to a solicitor? They begin very often at 14, 15, or 16, and a solicitor says: "This young man has been our *bona fide* clerk for seven years"; but we find it very difficult to believe that a clerk is a *bona fide* clerk to solicitors at the age of 14 or 15, and yet he is returned as such, and if we make inquiries we probably receive a rude reply.

48,866. We have been told that solicitors' clerks generally begin as "bag-carriers," and come gradually to more responsible work. You would have some difficulty in saying whether, in the bag-carrying stage, they should be called *bona fide* clerks to solicitors?—Yes. That is probably what they are. Perhaps "office boy" is the wrong term. I am not up in the technicalities.

48,867. You think that that would create some difficulty in applying the system of limited competition for the recruitment of this service?—I feel we should find great difficulty in scrutinising the certificates which say that "So-and-so" has been a *bona fide* clerk to solicitors for a certain number of years, and we should either have to engage in somewhat quarrelsome investigations or else we should have to let them all through simply on the certificate.

48,868. We have been told that legal experience is thought more necessary and valuable in certain departments than in others; in particular in the Chancery departments. Do you see any difficulty in applying a scheme of open competition to certain departments and having a system of nomination in others, or a system of limited competition in others?—I do not think it would be easy. It might be done. Of course, if you had admission to the clerical service of the Law Courts at two different points, supposing you admitted them

* Vide Appendix XCVII.

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by open competition straight into the second class, then you might have some substantial qualification of a legal kind; you might say that a man should have been an articulated clerk for a certain time, or even say that he should be an admitted solicitor. I am not at all sure that you would not get a field in that way. But, if you are going to admit them at the bottom, I find it very difficult to suppose that you would get any substantial qualification which could be tested for the lowest grade. You might, but I see a difficulty. I also see a difficulty in making a difference between one office and another.

48,869. Taking the case which you put of admission to the second class, you were suggesting competition with the previous qualification of certain substantial legal experience?—Yes.

48,870. When a man had acquired that substantial experience and was qualified for the second class, would not he have usually passed what you may call the competition age?—I think if the competition were definitely in legal subjects he might be well examined. Of course, all of us who have been examined have found that as we got a little older we disliked being examined more and more, and we were less inclined to think that we had done justice to ourselves; but if you are going to be examined in the matters which occupy your constant attention in the pursuit of your profession, I think that objection disappears to a certain extent. I should not like to examine people very late in life, but it is possible that in professional subjects examination up to the age of 30 is not objectionable.

48,871. In general subjects what would you put as the limit of examinable age?—Of course, if you have the qualification of an admitted solicitor, then, no examination in general subjects would be required because they have to pass that in some form or other in order to be admitted as solicitors.

48,872. (*Mr. Coward.*) And a very good examination too?—Yes, a very good one. If you cannot put the qualification as high as that—I am not at all sure you could not—you might still have the subjects of English composition and possibly arithmetic, which I think, people can go on being examined in, though perhaps not with great comfort, until the age of 30. It is the real scholastic subjects which one cannot examine in, after people have left off studying. You cannot examine them profitably in history or geography or mathematics or things of that sort.

48,873. (*Chairman.*) Supposing open competition proved impracticable, would you suggest an improvement of the present qualifying examination?—That would depend partly on the limits of age laid down.

48,874. Taking appointments to the third class, the present limits of age are, I think, 20 to 30?—Yes.

48,875. In the first place, would you suggest any modification of those age limits?—I see no advantage in going up to 30 unless you are going to exact some substantial legal experience. On the contrary, I am inclined to think that a young man who is willing, at the age of nearly 30, to take a post of this kind, has probably failed in one or more professions.

48,876. And if you are not going to have previous legal experience, would not there be some advantage in lowering the limit?—Undoubtedly. I should put it quite low—certainly not later than 25.

48,877. Would you also modify the lower limit of 20?—Yes, I think you might well begin at 18, only 100% is rather too much to offer a young man of 18 unless he has received a substantial education.

48,878. Supposing you had a limit of 18 to 25, what kind of qualifying examination do you think would be suitable for appointment to the third class?—There is another alternative, if I may be allowed to suggest it. There is not only the possibility (1) of open competition and (2) of a qualifying examination of nominated candidates, but also the possibility of limited competition; that is to say, a competition of persons nominated in excess of the number of posts to be filled.

48,879. That system is in force at present for certain Civil Service appointments?—Yes, a considerable number.

48,880. Do you think that that would be a suitable system for the cases we are now considering?—Yes, I

should think it would. There must be heaps of young men quite as well qualified as those who appear in this list, and it is not much more trouble to nominate two or three than to nominate one.

48,881. And then have a competition between those who are nominated?—Yes.

48,882. In an examination of that kind, or in the qualifying examination, would it be practicable to include legal subjects?—Difficult, I think. If you once begin to include legal subjects, I think you must assume that the candidates have left all kinds of schools, and have turned their attention to the law and the law alone. If you are going to have a competition in law, I should not have any general subjects except English composition and, perhaps, arithmetic.

48,883. Would it be practicable, do you think, to devise a legal examination which would be suitable for men without very long experience of the law, and at the same time would not be a suitable subject for cram?—It would be very difficult, I should think, just because you make a qualification that they are not to have had much experience of the law and not to have been at it long. If you try to catch people who, although not qualified solicitors, have been working for the solicitors' examination, you might have an examination like the solicitors' examination but of a somewhat lower standard. Although, of course, like all other examinations, it is more or less susceptible of cramming, I do not think it would be specially objectionable on that ground. It would have to be a substantial examination in law if it was not to be a cram examination, nor an examination which could be got round by cramming.

48,884. The matter with which the clerks have to deal in the offices is much more legal procedure and forms than the substance of the law itself?—So I understand.

48,885. So that if the examination was to have any relation to their future work, it would be rather in matters of that kind than in law in general?—Yes. On the other hand, I should imagine that anything that you could learn about legal procedure before you had actually come into contact with it, or had actually to carry it out, or assist in carrying it out, or see other people carry it out, could only be a matter of cramming.

48,886. (*Lord Mersey.*) And very worthless?—I should have thought so.

48,887. (*Chairman.*) Suggestions have been made, I think, as to adding some legal subjects to the qualifying examinations?—That is so. On the representations which came from the Lord Chancellor's Office we had correspondence. The Lord Chancellor's Office were very anxious to get rid of the digesting of returns and the indexing, so we said if that was to be removed we must have something substantial in its place. Then correspondence followed, and it was suggested that legal procedure should be included. However, that correspondence came to an abrupt end when this Commission was nominated, so that we got no further about it. I think, probably, we should have come to some agreement with the Lord Chancellor's Office about the kind of legal procedure which it was desirable to examine in, and which it was possible to examine in, but I think they, as far as I remember the correspondence, were coming to the conclusion that the examination in legal procedure should not be prior to admission but afterwards.

48,888. In fact, that it should be of the nature of probation?—Yes.

48,889. After a man had been in the office for a certain period he would have to pass a qualifying test?—Five years, I think was said. The candidate was to pass another test before being promoted to the second class. That was, I think, the proposition to which the correspondence was leading up, but it came to an abrupt end, and neither party saw the other's mind quite clearly.

48,890. As regards the higher officers with whom at present you have nothing to do, you are aware that a scheme was recommended by the Commission in their earlier Reports for dealing with appointments to professional offices. That recommendation contemplated a committee on which, amongst others, the Civil Service Commission should be represented, to report on the

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qualifications of candidates to the authority who finally made the appointment?—Yes.

48,891. Can you form an opinion as to whether a scheme of that kind would be applicable to the higher appointments in the legal departments?—May I ask what kind of higher appointments you are thinking of—not second and first class clerks?

48,892. No, I am thinking now of the posts of masters and registrars with salaries of 1,200*l.* and 1,500*l.* a year?—Yes. It seems to me it could be applied to them.

48,893. Can you form an opinion as to whether it would be advantageous?—It depends upon the system which it is desired to displace.

48,894. The present system is a system of appointment in many cases by the Lord Chancellor, and in other cases by other high legal officers—the heads of different divisions of the Supreme Court?—That sounds a most admirable manner of appointment.

48,895. Are you prepared to say whether you think a committee to assist those officers in their choice would be an advantage?—It ought not to be.

48,896. Would you say that those high officers should be able to appoint suitable persons without the assistance of a committee?—Surely.

48,897. In the legal offices there is a certain amount of work of a purely mechanical and routine nature which is done mainly by third class clerks at present, and there is work of a more difficult and important kind which is done by the first and second class clerks. Based on that division of work, a suggestion has been made that third class clerks should be recruited without any prospects of promotion to the higher classes, and that the higher classes should be recruited separately by appointments directly to the second class or even sometimes to the first class. This would introduce a bar between the third class and the higher classes somewhat similar to that which exists, say, between the second division and the first division in the Civil Service generally. Can you form an opinion on that question of organisation?—I should have thought that it would, wherever it was possible to introduce it, bring about a very considerable economy of talent. It is a very great waste of time to put a man who is fit to eventually become a second or first class clerk to many years of drudgery on the barest routine. It is not only a waste of his talents for the time being, but it probably leads to a permanent deterioration of them; it takes the edge off him.

48,898. On the other hand, would you not get a discontented class if you had men who came into that class with no prospect of rising beyond 200*l.* a year?—I should not like to make too absolute a bar. I think everyone should feel that there is promotion before him, although it may be difficult to attain. I should suppose that if the system you suggest were set up, promotion would be so rare that perhaps the position of the lower clerks would not be entirely satisfactory. Although the great majority of assistant clerks in the Civil Service do not actually get promoted, promotion is fairly within their reach; and as things are they are not very well content, as you know.

48,899. (*Mr. Graham Wallas.*) I have before me the return of particulars as to candidates nominated. By “nominated” you mean nominated and appointed?—No, “nominated” is nominated, I think.

48,900. Then I am not to assume that all of them were appointed?—I think they must have all been appointed. I do not think we should have put them down if not appointed. When I say “nominated” means nominated, it makes a certain difference to the dates; some of the numbers do not quite agree, because one table is a table of people certificated in a particular year and another is a table of people nominated in a particular year.

48,901. Those are nominated and ultimately certificated?—That is so.

48,902. Looking at the first column, “Father’s profession,” I find in the case of eight of those persons the father’s profession is put down as an official in the Probate Registry?—Yes.

48,903. There are two other cases in which the father’s profession is put down as “Civil servant,”

where the occupation at the time of nomination was temporary employment in the Probate Registry. Therefore, one supposes that that is some indication that the father was a Civil servant in the Probate Registry?—That I could not be sure about. If you like to have those things looked up I will have them looked up.

48,904. I should like it.—Just where the words “Civil servant” are mentioned?*

48,905. Yes. Should I be right in presuming that, at any rate in those eight cases where the father is returned as an official in the Probate Registry, the appointment probably was made in the Probate Registry?—I think so. I think the nomination for the Probate Registry proceeds from the head of that branch. No doubt it is presented to the Lord Chancellor and approved by him, but I should suppose it would originate in the Probate Registry.

48,906. This must make a large proportion of the officials in the Probate Registry, and one may say it is always the custom in the Probate Registry that the newly-appointed officials are sons of old officials?—The Probate Registry is a large office. I should say the proportion is not very large.

48,907. But important?—Seventy-eight have been appointed in that time.

48,908. On page 2 of your return there is one whose father’s profession was “district probate registrar”?—Yes; and there is another one above, whose father held the same office.

48,909. He was appointed at the age of 28?—Yes.

48,910–18. May I presume that he was appointed in the Probate Registry?—I am informed that he was.

48,919. Then judges’ clerks and barristers’ clerks are exempt from all examination?—Yes, judges’ clerks and barristers’ clerks of a certain standing.

48,920. Do you know why?—It was done at the instance of the Lord Chancellor, and I suppose the Treasury raised no objection, because they thought that a judge was not likely to have an incompetent clerk.

48,921. Is it partly because a barrister’s clerk usually follows up his master throughout his career, and is, in his origin, a person very likely of small education? Would you say that?—Certainly I do not understand that they are exempt from examination because they are supposed to be less likely to pass than anybody else, but because they are supposed to have obtained in those capacities qualifications which are adequate for the duties intended. But you must remember, please, that although we may be consulted about these arrangements they are really made between the Lord Chancellor and the Treasury. We are not actually responsible for them.

48,922. The purpose of the Act of 1859 was to secure that no one should be appointed to a Civil Service post, including rights of pension, unless he had been examined and received a certificate from the Civil Service Commission?—Quite so.

48,923. The masters and registrars are appointed to pensionable posts?—No doubt.

48,924. And I think you tell me that they do not receive any Civil Service certificate?—No.

48,925. And if there are other officials connected with these legal departments who are appointed to pensionable posts without being submitted to the Civil Service Commission, you would not know of it?—No, we should not.

48,926. Whose business is it to find out and inform them?—I could not tell you.

48,927. Is it not the business of the comptroller and auditor-general?—Possibly; I do not know. I may point out another thing which is a matter of some little interest, that in the Act of 1873 (and this applies to the Law Courts) it was laid down that any officer “to be here—” after appointed in pursuance of this part of this Act, “and whose whole time shall be devoted to the duties of his office, shall be deemed to be employed in the permanent Civil Service of Her Majesty, and shall be entitled, as such, to a pension or compensation in the

* In one case the father had served in the Probate Registry, in the other case the Inland Revenue. The appointments were in the Probate Registry.—S. M. L.

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"same manner, and upon the same terms and conditions, as the other permanent Civil servants of Her Majesty are entitled to pension or compensation." That, of course, would have brought the whole staff of the Law Courts under the ordinary rules of the Civil Service; but by an amending Act of 1879 that was left out, and another clause was substituted, requiring indeed that any officer of the High Court appointed after the commencement of the Act should have a Civil Service certificate if he was to receive pension rights, but providing that: "The Lord Chancellor may from time to time, with the concurrence of the Treasury, make, revoke, and alter orders declaring that this section shall not apply to any office or class of offices specified in the order." So practically all the officers in the Law Courts are exempt from the operation of the Civil Service clause, except those whom we now look after.

48,928. And you do not know which offices have been exempt?—No. All we know is that certain nominees for certain offices are sent to us for examination.

48,929. Those rules and orders might cover the whole office without your knowing it, except in the case where nominees are sent to you?—Quite so.

48,930. Do you find in practice that the medical examination involved by the Act of 1859 is of some importance with regard to pensionable posts?—Very important, undoubtedly.

48,931. Would you say that a man who felt that his eyesight was failing, or in other ways that his health was failing, might, in the absence of a medical examination, be tempted to apply for a pensionable post quite late in life?—It does seem quite possible.

48,932. Can you see any reason, therefore, why that medical examination should not be applied by the State as freely and regularly as it would be applied by an insurance office?—No, I certainly think that it ought to be.

48,933. Would you say that the large rights of personal nomination by certain high officials, which prevail throughout the legal departments, are exactly similar to the general arrangement in the Civil Service before the reforms which began in 1855?—Undoubtedly.

48,934. And your phrase, that it ought not to be necessary to substitute any alterations, would have applied just as well to the state of things before 1855?—Perfectly.

48,935. But it was found, in spite of your statement that it ought not to be necessary, that it was necessary?—Certainly.

48,936. (*Sir John Kempe.*) I notice in your evidence already given to this Commission, you said you would be in favour of nomination if the nominating authority could be a perfect authority?—Yes.

48,937. I suppose from that I may deduce that now you think wherever it is possible open competition ought to be adopted?—Wherever it is possible and convenient, shall we say? By convenience, I mean the convenience of the public; that is, the genuine advantage of the public service.

48,938. You would not consider the convenience of the office?—No.

48,939. If the office said that it was much easier to get on with a trained man, would that, in your opinion, be sufficient justification?—No.

48,940. As a matter of fact, there are other offices where the duties are almost as technical, I should say, as those in the legal departments; for instance, the Estate Duty Office, which is supplied with clerks entirely through open competition?—Yes.

48,941. That has answered very well, and the work there is quite as technical as the legal departments have to meet?—Yes, it is probably more technical.

48,942. Therefore I do not see any ground for saying that the work cannot be learnt in the office?—No; my view is, if you take on a clever young man, you ought to be able to teach him any sort of legal work. Of course you would make a few bad bargains, but on the average you ought to be able to get a class of man you could train to do legal work.

48,943. But, at the same time, technical qualifications are wanted?—Technical qualifications must be

obtained at one time or other; whether obtained before or after entering the office is largely a matter of convenience.

48,944. But, so far as you can see, would you say that there is probably no more reason for requiring technical qualifications for a legal department than for requiring that the Local Government Board should be recruited from municipal officers, or the Customs from shipping clerks. In fact, in any department you might say that there is a great deal of technical work quite as technical as in the legal departments, and your recruits by open competition will master it perfectly?—Subject to the limitations of my ignorance, I should agree with you.

48,945. It does not fall within your province to decide matters of that sort?—I mean, I know so little about what these clerks actually do in the law courts.

48,946. I understand you are inclined to think that you would have to allow the first and second class clerks, in a branch like the Chancery, to have a certain amount of technical qualification?—I do not feel sure that that is necessary. I was trying to make provision for legal qualifications if it were proved that they were needed. Otherwise I do not see why you should not select the second class clerks by any good open competition.

48,947. You told the Chairman that you saw an objection to the differential treatment of different offices. We know in different offices some require much more technical knowledge than others; but you see a difficulty about recruiting for them separately. As it is now, you have the same kind of officers with the same scale of salaries for all the legal offices although the prospects are different and the work different?—Yes.

48,948. They are really as different as ordinary Civil offices are, but you see a difficulty about separating those offices?—What I was thinking of was that I thought it would be difficult to recruit two different kinds of third class clerks by two different kinds of examination, and pay them the same salary. That is what I had in mind. If that was not what was intended I modify my remark accordingly.

48,949. To depart, in fact, from the present system, which is to get the same class of clerk for all the offices, you would have to modify it?—Yes, it would be necessary to modify that.

48,950. One witness appeared to see a great difficulty—I think in the Chancery master's office—about teaching the work where there were only two or three clerks in an office. There are several Chancery masters, and only two or three clerks in each office, and they said that if there was a vacancy there it was very difficult to train a man. Could you suggest any way of supplying those offices temporarily with men to carry on the work while the new men are being trained? You might find a difficulty in providing for offices where there are only two or three in an office, and they cannot be interchanged. It has been said that in that case you can only get over the difficulty by having technical qualifications with nomination?—That sounds as if it would get over the difficulty of the technical qualifications, but I cannot imagine that anyone can know what has to be done in a master's office until he has been in a master's office six months.

48,951. The argument is that if you supply the clerks from solicitors' offices you get the man in who has been dealing with the master's work before, and knows what he is about?—There may be something in that; I do not know.

48,952. They are technical qualifications which are rather difficult to describe, but I suppose it means a knowledge of Acts of Parliament and of forms and of legal terminology?—Especially a knowledge of forms, I should think.

48,953. Might not all those three things be acquired after seeing the work done, in a few weeks almost?—If the masters get men direct from solicitors' offices who are constantly dealing with the Chancery offices, then I can see how they can lay their hands on the man wanted; I do not see much evidence on this list of the staff that that is what is done, but it may be so.

48,954. Do you think that a clerk supplied by open competition would be more likely to learn these things

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than a solicitor's clerk?—Unless he was a solicitor's clerk who had done that class of work before.

48,955. We understand that a solicitor's clerk has to begin at the bottom, and must have learnt something?—He may have learnt something, but not necessarily that particular work.

48,956. They say he would have learnt some of the technicalities?—I should not like to express an opinion about it.

48,957. (*Mr. Matheson.*) Does not the list of appointments seem to suggest that there is a want of proper classification of functions about these clerks. When

you have such a variety of people varying in age and qualifications in all sorts of ways, does not that suggest that there is something wrong in the arrangement of the work?—It certainly suggests some want of uniformity in methods of nomination. I do not feel prepared to go beyond that.

48,958. Supposing the third class were made more or less self-contained with a prospect of promotion only in exceptional cases, would not something like the examination which we suggested for the junior clerical class meet the case of these third class clerks?—Yes, I should say so.

ONE HUNDRED AND TWENTIETH DAY.

Thursday, 11th March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. JAMES RIGG BROUGHAM, called and examined. Mr. J. W. BRADFORD (first class clerk) was in attendance.

48,959. (*Chairman.*) You are the Senior Registrar in Bankruptcy?—I am.

48,960. How long have you held the post of registrar?—Since August 1848.

48,961. Were you originally appointed to the public service in 1845?—Yes, as a clerk in the Lord Chancellor's Secretary of Bankrupts' Office.

48,962. And you were appointed registrar in 1848?—August 1848.

48,963. So that you have held that post for nearly 67 years?—Yes. I was appointed to the Liverpool District Court of Bankruptcy in 1848, and was then transferred to London in 1862; but while acting in Liverpool I used to act in London also, being constantly interchanged. The original appointment of registrars was, when I was appointed, under the Royal Sign Manual.

48,964. Including the provincial appointments—the appointment at Liverpool?—Under the Royal Sign Manual. Then in 1849, when there was a Bankruptcy Law Consolidation Act, appointments were made by the Lord Chancellor.

48,965. Before your appointment to the public service were you in the legal profession?—I was in a lawyer's office in Edinburgh—in the office of a writer to the signet.

48,966. The system of bankruptcy administration was materially altered by the Act of 1883?—Yes. We have had many Bankruptcy Acts, and a great many alterations. When I was originally appointed the work was very different from what it is now; it was very much lighter work altogether. It has been varied from time to time, until now we have partly judicial functions to perform, which we had not originally, nor for many years afterwards. The alteration was in about 1869.

48,967. Was it the Act of 1883 which created the system that substantially exists at the present time?—Yes, substantially that is so.

48,968. That is to say, it placed the jurisdiction in the Bankruptcy Division of the Supreme Court, and in the County Courts?—Yes.

48,969. Since the time of that Act the operations of the Supreme Court are conducted by a Judge in Bankruptcy and registrars?—That is so.

48,970. The work which goes to the registrars is in the main defined by Section 102 of the Act of 1914, which consolidated the previous Acts?—That is so.

48,971. May it be said that the effect of that generally is that all ordinary proceedings in bankruptcy come, in the first instance, before one of the registrars?—Yes.

48,972. Will you kindly tell the Commission, very briefly, what is the course of proceedings in an ordinary bankruptcy? It begins with a petition?—It begins by a petition. It is possible that before that a bankruptcy notice is very often the beginning, but not in every case. A petition is the foundation of the bankruptcy—a petition asking for a receiving order.

48,973. And that petition goes before one of the registrars?—It is filed in the Senior Registrar's Office, and then it is answered for a day, and the hearing comes before a registrar after it is served.

48,974. Upon that, if circumstances are found to warrant it, is a receiving order usually issued?—If all the requisites are proved a receiving order is made. It is very frequently disputed, and counsel appear very often on the hearing of a petition to dispute it—counsel on both sides.

48,975. That leads to the appointment of a receiver?—One of the official receivers is appointed in the bankruptcy.

48,976. It is always an official receiver?—Yes, always an official receiver. There are a certain number of official receivers in the court appointed by the Board of Trade—they are officers of the Board of Trade.

48,977. They are officers of the Board of Trade under the Inspector General in Bankruptcy?—Yes.

48,978. Is the next step a meeting of creditors?—Generally, a meeting of creditors called by the official receiver and presided over by the official receiver.

48,979. What follows upon that?—It depends. If the debtor appears, he is examined previously to that before the official receiver; and at the meeting, if he has not proposed a scheme of composition, or some scheme of arrangement, then the creditors have an opportunity of passing a resolution that he should be adjudicated a bankrupt, and they appoint a trustee. If they pass no resolution, then the official receiver generally applies for adjudication himself. If they

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pass a resolution he applies, by virtue of that resolution, to the registrar for adjudication, and the debtor may either be adjudicated or not, as circumstances may arise.

48,980. That comes before the registrar for decision?—Yes; and, sometimes, the debtor opposes that on different grounds; but if it results in adjudication, then the adjudication is made, and all these notices of the receiving order and the adjudication are sent, when made, to the Board of Trade by the Senior Registrar's Office, and then they are published in the *Gazette* and newspapers.

48,981. After that there may be an application for discharge?—The next step is an appointment for a public examination of the debtor, and that has to be held in open court.

48,982. By the registrar?—The registrar presides at that, and the official receiver examines the debtor on oath, and the examination is all taken down in shorthand. After that, when it is concluded, the debtor may apply for his discharge. He sometimes applies immediately; sometimes he waits two or three years, which, I think, is unfortunate. At one time the Court used, immediately after the public examination, to appoint a day for discharge, and the debtor was obliged to appear; and, if he does not appear, he took the consequences. Now, it is left for the debtor to apply at any time for his discharge after his public examination has been concluded.

48,983. And it rests with the registrar to grant or refuse the discharge?—The application for discharge is heard before the registrar, when he can refuse, suspend, or grant. There are certain offences in the Act which oblige him to suspend, or to make some other order, either granting it on consenting to judgment, or some such terms.

48,984. All those proceedings normally take place before the registrar?—All before the registrar in open court.

48,985. In what cases do the proceedings take place before the judge?—The judge hears all motions. They are, practically, motions that relate to property where there is dispute as to whether the property is the property of the debtor or somebody else, and that, always, is determined by the judge, and the motion is before the judge. I have prepared a list of particulars of the business dealt with by the judge in Bankruptcy. In open court he hears appeals from the Board of Trade to the High Court.

48,986. What would the nature of those appeals be?—They are appeals as to the appointment of a trustee. There are not many of them, but, where the Board of Trade objects to the appointment of a trustee and that is appealed against, it has to go before a judge; there are not a great many of those, but there are some. Then applications to set aside, or avoid any settlement or conveyance, transfer of security, or payment by the bankrupt for or against the title of the trustee to any property adversely claimed; applications for committal for contempt; appeals against the rejection of a proof, or applications to expunge or reduce a proof where the amount in dispute exceeds 200*l.*; if it is below 200*l.* the registrar can deal with it. Then applications for trials of issues of fact by a jury. Those are the main points, I think.

48,987. Those are the main matters dealt with by the judge in court?—Yes.

48,988. There are certain other matters which are heard by the judge in chambers?—Yes. Any applications relating to any of those matters may be heard in chambers; any preliminary applications and also judgment summonses—of which there are a large number—are so heard. The judgment summonses are heard in open court under Rule 374 of the Bankruptcy Rules. The average number of such summonses per annum is 516.

48,989. Why are those necessarily heard before the judge and not before the registrar? I understand it is under one of the rules; but what is the reason of the rule? Are those proceedings of special importance?—When there were first judgment summons I think they were heard by the registrar for a short time. There are applications under judgment summons to commit

to prison. If they do not pay, they are committed to prison for so many days, and I think it was thought desirable that that application should not be heard by the registrar, and that it ought to be heard by the judge.

48,990. Because it may involve committal to prison?—It involves the committal of the debtor to prison. I suppose that was the reason of it.

48,991. Have the parties the right to ask that any of those ordinary proceedings that are being conducted before the registrar should be adjourned to the judge?—Yes. If all the parties before the registrar request that it should be heard before the judge we have to adjourn it to the judge, or if one of the parties asks for it and the registrar thinks it of sufficient importance, either as being difficult or new matter, he can adjourn it to the judge. There are not very many of those cases—very few. I may say, as to the orders of the registrars, there is a direct appeal to the Court of Appeal from the registrars. When the registrar makes any order it is the order of the Court, and the appeal is direct to the Court of Appeal.

48,992. Are there many appeals from the decisions of registrars?—Not more than from the judge, I may say. There is a return made every year of those, and I think I might say they compare very favourably. In the year 1912 there were only 24 appeals to the Court of Appeal, both from the judge and from the registrars. In 1913 there were only 17, and in 1914 there were 34.

48,993. Is the bankruptcy business increasing or diminishing?—At present it is very much less, in consequence of the moratorium and what has taken place; but I do not think there is really any very material difference.

48,994. Referring to the judicial statistics, may the number of bankruptcy petitions be taken as a fair measure of the amount of bankruptcy business?—Certainly. The number of petitions is a very good criterion.

48,995. I see the annual average from 1889 to 1893 was 5,669 petitions; that, I think, is including the County Courts as well as the Supreme Court?—We have the number of our own petitions in the High Court for the years from 1910 to 1914. In 1913 there were 1,653 petitions, and in 1914 there were 1,324. It fell off at the end of 1914 after August.

48,996. Have you any figures to show how that compares with, say, 20 years ago?—No, but it could be easily made up.

48,997. In the judicial statistics the figures only give the total number of petitions which, I think, includes the County Courts as well as the High Court?—Yes.

48,998. The total was 5,669 annually, from 1889 to 1893, and 5,111 from 1909 to 1913, which would seem to show a certain diminution, but not a very large diminution—something like 10 per cent.?—Yes.

48,999. Would that, do you think, be the case in the High Court as distinguished from the County Courts?—I should think the proportion is much the same. As regards the High Court the number of petitions varied very little except in the last year. In 1910 there were 1,492; in 1911 there were 1,637; in 1912 there were 1,612; and in 1913, 1,653; showing in those last three years a slight increase. Of course bankruptcy varies sometimes with the state of trade—whether trade is good or bad. Some people think that when trade is good there are more bankruptcies.

49,000. To whom do appeals from bankruptcy decisions in the County Court go?—To the Divisional Court of the High Court before the Bankruptcy judge and one other judge. Then there is an appeal from that court to the Court of Appeal, if leave is given.

49,001. How many registrars are there?—There are five Bankruptcy registrars, one of whom is attached to the winding-up of companies, and that leaves four for bankruptcy business.

49,002. In the information you have given us about the bankruptcy proceedings generally, we have, I think, a fair indication of the nature of the bulk of the registrar's work?—Yes, I think so.

49,003. Has the registrar also to attend in court?—They attend in court on the judge when he sits in Bankruptcy, and also on the Court of Appeal. One

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registrar attends the judge in Bankruptcy and also the Divisional Court and the Court of Appeal.

49,004. Is the judge in Bankruptcy sitting continuously throughout the sittings?—Oh, no; he only sits when he is required, and when he can be spared from other work to a certain extent.

49,005. How often, roughly, does he sit in Bankruptcy?—There is a return made of the number of days that he sits in court.

49,006. (Mr. Coward.) Sometimes his days in court are very short?—I should say no. I think he generally has a very full list when he sits in court. He does not always get through it in one day.

49,007. It was referred to in the Commission on Delay, and I remember evidence was given about it then. Lord Justice Phillimore gave evidence as to the time occupied in hearing Appeals in Bankruptcy.

49,007A. (Lord Mersey.) He may have been a very quick judge—I do not know; but I have sat for a good long time in Bankruptcy, as Mr. Registrar Brougham, I dare say, remembers, and my experience was that I always had a full day's work?—Generally a very full day's work. I have here the number of days on which the judge has sat to hear bankruptcy matters, excluding the Divisional Court. In 1912 it was 95 days; in 1913, 107 days; and in 1914, 95 days. Then he sat on other days with another judge as a Divisional Court in 1912, 13 days; in 1913, 15 days; and in 1914, 13 days. There were applications in chambers as well, but these are the numbers of sittings in open court, and I should say that they are nearly all sittings up to 4 o'clock generally. Of course, sometimes cases break down, but as a rule it is a full day's work.

49,008. (Chairman.) That would amount to something like half the working days in term time?—Probably.

49,009. The working days are, I believe, estimated at 212?—There is a return of all these figures in the judicial statistics.

49,010. Has the senior registrar special duties as distinguished from the other registrars?—Yes, different and additional duties. He has the separate duties of what is called the Senior Registrar's Department. These duties can, in his absence, also be discharged by the other registrars. The Senior Registrar's Department consists of nine clerks, namely, a first class clerk or chief clerk two clerks of the second class, and six of the third class. All the correspondence from the Lord Chancellor and others is generally dealt with in the office. Petitions, as I have already said, are presented there and are filed; public searches of the books; creditors sworn to proofs.

49,011. The senior registrar's department acts as the central office of all the registrars' courts; all documents are filed, and all clerical work is done there for all four registrars except that which is done by their personal clerks?—Yes. I have a return here of the business of the senior registrar's department for the years 1912-13-14, and it shows the number of searches; the fees taken for the searches, fees for oaths, fees on filing affidavits and bankruptcy notices, and the creditors sworn, and the returns that they have to make to the Board of Trade—a very full return. I will hand in that table. It shows that the searches are over 600 by the Land Registry Office, and by the public 11,905 for last year. The fees taken are 500*l.* or 600*l.* The fees are all taken by bankruptcy stamps.

49,012. And the senior registrar's department has charge of the records?—Of all the records of the establishment.

49,013. They are very voluminous?—We have had a book prepared of all the records.

49,014. Are the more ancient records often referred to?—Not so much now. There is a decrease, of course, in references to very old records, but we had for a very long time continual searchings of the old records, especially for unclaimed dividends. I think those have dropped off a good deal now.

49,015. (Lord Mersey.) Is there a period at which the records are destroyed? They are not preserved for ever, are they?—Certain records are preserved, I may say, for ever.

49,016. Are they sent to the Record Office?—Some are and some are not. All the records of bankruptcy are preserved and all the records of insolvency proceedings are preserved. The insolvency proceedings are now transferred to a place at Stratford, so that they may be open for search by anybody who requires to search for them, and occasionally we have searches for those old insolvencies.

49,017. There is a gentleman there, I suppose, in charge of them?—The senior registrar is in charge of them.

49,018. But there must be some official in charge of them?—The records are in an office at Stratford.

49,019. There must be some officials there?—Yes.

49,020. Have you any idea how many officials there are there? Is it under Sir Maxwell Lyte?—It is a labour exchange department. We used to have those records in Chichester Rents, and it was suggested if they were removed to Stratford, where they had a labour exchange, it would save the rent we had to pay at Chichester Rents, and they are now there and locked up there. There is no access to them except by those who have the right to attend.

49,021. If a man wants to get access, where does he apply?—He applies to the office of the Senior Registrar in Bankruptcy.

49,022. (Chairman.) I see from the figures you give, that there are half a million records of insolvencies stored at Stratford, dated from 1813 to 1861?—I might say in answer to Lord Mersey's question, as to whether records are destroyed, that bankruptcy notices, judgment summonses, and papers of that sort are destroyed periodically as confidential waste.

49,023. (Lord Mersey.) I suppose they are burnt?—They are pulped.

49,024. (Chairman.) What is the method of appointment of the registrars. By whom is the appointment made?—The Lord Chancellor.

49,025. Is there any statutory qualification?—None.

49,026. As a matter of fact, what has been the previous experience of the present registrars?—The present registrars, except myself, have all had some standing at the Bar and experience at the Bar.

49,027. All four, including the Companies Winding-up registrar, were barristers before appointment?—All barristers of standing and of considerable experience.

49,028. What is the method of appointment of the clerks in the office?—They are appointed by the Lord Chancellor, generally as third class clerks, after they have passed the Civil Service examination. The Lord Chancellor appoints them subject to passing that examination as third class clerks, and then they move up.

49,029. Does the Lord Chancellor consult you as to candidates?—Generally the Lord Chancellor does through his secretary. When an intimation is made to him of a vacancy, generally the Lord Chancellor's secretary communicates with the senior registrar and sends anyone that he thinks fit, and asks whether I think he is a suitable man.

49,030. Does he send candidates only when there is an actual vacancy, or does he send candidates at any time before putting their names on the Lord Chancellor's list?—Only when there is a vacancy.

49,031. Does he send one candidate and ask you whether that man is suitable, or does he send several and ask which is the more suitable?—Sometimes one and sometimes more than one.

49,032. If he sends more than one he then asks you which you think the most suitable?—Yes.

49,033. Have the men, who have been appointed in that way, as a rule, had legal experience before appointment?—Generally speaking, they have been clerks in solicitors' offices or had some other legal training. Generally what we prefer is to have those who have been in a solicitor's office. We find them the most suitable.

49,034. At what age are they usually appointed? Are the limits of age from 20 to 30, as in the other legal offices?—I think they come at about 20 to 23 for the third class.

49,035. Have you found the results satisfactory? Have you got the right sort of men?—At present, perfectly so.

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49,036. You have no reason to be dissatisfied?—Of late years we have been perfectly satisfied. I think we have got a very good establishment all through the staff of clerks at present. The mode of appointment has, I think, been very satisfactory.

49,037. In saying that you think it advisable that they should have had previous legal experience, what are your reasons? Is it the actual knowledge that they have acquired, or is it the legal habit and attitude of mind?—I think it is the legal attitude of mind, and they acquire a considerable amount of legal experience, because there are so many legal points which arise in different matters they have to deal with.

49,038. Do you think they can acquire that better by their outside experience than in the office itself?—It enables them in the office to acquire it more quickly I think.

49,039. If you had an intelligent and well educated young man of 19 or 20 appointed without previous experience in a solicitor's office, would it take him very long to acquire a knowledge of the work?—No, not as a third class clerk.

49,040. Would his experience in the office as a third class clerk qualify him for advancement to the higher classes?—Certainly.

49,041. So that you would say that previous experience is desirable but not indispensable?—Not indispensable, no.

49,042. The establishment of your office consists, I think, of one first class clerk, seven second class clerks, and six third class clerks, that is including the four registrars' clerks?—That is so.

49,043. (*Mr. Coward.*) Does not that include the Companies Winding-up?—No, that is Bankruptcy alone.

49,044. (*Chairman.*) It does not include the Companies Winding-up or the Taxing Department?—That is right.

49,045. Of the second class clerks, four are specially attached to the registrars?—Yes.

49,046. What is the nature of their duties generally?—They attend in court when the registrar sits in court and supervise the swearing of witnesses and debtors, and also take a note of the evidence read or heard, and the judgment of the Court for the purpose of drawing up the orders—that is part of their duty in court. In chambers, in all cases it is their duty to see that applications and other documents bear proper revenue stamps and to cancel the stamps. They issue the bankruptcy notices on behalf of the registrars, and that requires a wide knowledge of the judgments and orders made in all civil courts in England, including the issuing of execution therein. It also necessitates knowledge of the numerous decisions relating thereto, which entails constant reading in order to keep up-to-date in any recent decision. Then they do the investigation of creditors' petitions on behalf of the registrars, and, where necessary, taking the registrar's directions upon them.

49,047. That is work preparatory to the registrar's decision?—Yes.

49,048. They have a good deal of other work, I gather, of the same nature: work preparatory for the registrar, which relieves the registrar of a considerable amount of detailed investigation of documents?—Yes. I have sent in a full copy of their duties to the Commission.

49,049. Is their work rather important and responsible?—Very important. I may say that of the four registrars' clerks and the clerk attending the judge, three have been called to the Bar since their appointment as clerks to registrars.

49,050. (*Lord Mersey.*) Was that with a view to promotion, or what?—I cannot say.

49,051. Can you suggest any other object in their being called?—I do not know. I never quite knew why they were called to the Bar. I suppose it might be to fit them for some better appointment.

49,052. (*Chairman.*) Do they also draw up the orders with the parties?—They draw up the orders, settle them in draft, and then they submit them to the registrar.

49,053. Are the orders drawn up in that way simple or difficult?—The orders of the Court are not very difficult, but certain orders—for instance, vesting orders

—require a very great deal of care in drawing up; they are very long, and sometimes complicated; questions of title arise upon them.

49,054. Are they comparable in difficulty with the orders drawn up by the Chancery registrars?—I should think not more so.

49,055. The other clerks, apart from those specially attached to the registrars, are in the Senior Registrar's Department?—Yes.

49,056. Performing the duties which you have described as appertaining to that department?—Yes.

49,057. What sort of work have the third class clerks in that department? Is it work of a routine and mechanical nature, or is it work requiring discretion and judgment?—There is a certain amount of routine work and a certain amount requiring discretion.

49,058. I suppose the greater part of their work would consist of the issuing of notices, the keeping of books, and other work of that kind that is necessary for the routine of the office?—Yes, very much so.

49,059. Have they also any duties of a more responsible nature?—No; I think it is pretty well routine work. They require, of course, to keep up to the law in bankruptcy and the different sections that are applicable to their department, and they attend to the filing of the papers.

49,060. Do any of them write shorthand?—I think several of them do.

49,061. Is much use made of shorthand dictation in the office for correspondence, for instance?—Yes.

49,062. A considerable use?—Yes, and, of course, the clerks to the registrars find it very useful to write shorthand.

49,063. Do you use shorthand dictation yourself much?—No.

49,064. Is typewriting used in the office?—No, there is no typewriting except in the Official Receivers Department, where there is typewriting of their reports, but that is a Board of Trade department. We have a Scrivenery Department instead of the typewriters. It is a branch of the High Court Scrivenery Department. All office copies are written in the Scrivenery Department.

49,065. Is typewriting used there?—No, not in that department.

49,066. The whole of your work is manuscript and not typewriting?—There is no typewriting in our department at all.

49,067. Would not it be of advantage to use typewriting?—I do not know that it would.

49,068. We have been told, as regards speed and expense, that it takes half the time, and costs half the money for the same amount of matter. That would be a distinct advantage in the use of typewriting?—The principal work would be the office copies. There are a large number of office copies.

49,069. Would there be any objection to their being typewritten?—No, I see no objection whatever.

49,070. It is easier to read, and less expensive to produce?—Yes. We take about 72*l.* a month for supplying office copies.

49,071. So there is a considerable amount of copying?—Yes, a substantial amount, and there might be a saving in that respect.

49,072. (*Mr. Coward.*) Would not those copies, to a certain extent, represent examinations in Bankruptcy?—They are both copies of examinations and copies of affidavits.

49,073. But the examinations that you would make would be taken down by the shorthand writer and transcribed?—The proceedings at the public examinations are all taken down by a professional shorthand writer appointed by the Court. He transcribes them, and sends one copy to the official receiver and one is kept for the file of the proceedings.

49,074. They are typed, are they not?—They are not typed.

49,075. They should be, of course?—The official receivers in Bankruptcy make reports to the Court on the debtor's application for discharge, and they are generally typed. Very often they are very long reports, going into the whole case.

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49,076. (*Chairman.*) I understand that the work of the third class clerks is for the most part of a purely clerical character, and more or less of a routine nature—keeping books, filing returns and documents, and so forth?—Quite so.

49,077. But the actual manual copying is done by the Scrivenery Department, and not by your clerks?—Yes, mostly so.

49,078. The work of the second class clerks is of a decidedly more responsible character?—Yes.

49,079. Have they work that you consider important and good work?—Certainly.

49,080. Are you satisfied with the organisation of the office as it stands at present?—Perfectly.

49,081. Do you think the classification of the clerks corresponds to the work they do?—The only thing I am dissatisfied with is that I think we have an insufficient number of first class clerks. In the whole office we have only one first class clerk. That, compared with the number in the other departments of the High Court, is very much less, and I think we ought to have at least two additional first class clerks.

49,082. The comparison with other departments, of course, might cut in both directions; it may be that the others have too many. But, examining the question from the point of view of the work, is work done now by the second class clerks which you think of sufficient importance to justify the appointment of a first class clerk?—Yes. For instance, I may say that a second class clerk attends the judge and the Court of Appeal. I think his duties are such that they are worthy quite of a first class clerk.

49,083. What are his duties in court? You have told us, I think, that he takes a note of the proceedings and takes down notes for the order to be made?—Yes.

49,084. (*Lord Mersey.*) And he very frequently tells the judge what the law is?—I think Lord Mersey knows very well the importance of the clerk, and that he has a great many important duties. He has to prepare all the orders for the Court of Appeal, and if there is any difficulty about those orders he settles them in draft for the registrar to approve of them. He attends all interlocutory applications in bankruptcy, and, dealing with judgment summonses, he has to take a shorthand note of the proceedings there, endorse the transcript, and file it for the judge's signature, and then he obtains and stamps the orders for the registrar's signature.

49,085. (*Chairman.*) You say he has to take a shorthand note?—Yes.

49,086. Do all the clerks who sit in court write shorthand?—No, I do not think so—some, but not all.

49,087. Then the note is not necessarily in shorthand?—It is not a *sine qua non*.

49,088. Are the clerks who sit in court referred to by the judge on questions of procedure or even of law?—I think they are occasionally. The registrar sits in court with the judge and the clerk attends also.

49,089. Both the registrar and the clerk are in court?—Both sit with the judge, and also in the Court of Appeal.

49,090. So that the judge's requests for information about procedure would be addressed to the registrar and not to the clerk?—Generally speaking.

49,091. (*Lord Mersey.*) But it sometimes happens, does it not, that the registrar is not there, and that the clerk alone is there?—Very seldom so in open court. In chambers the clerk is there.

49,092. I am talking about open court?—With regard to judgment summonses the registrar does not attend the court, but only the clerk.

49,093. (*Chairman.*) Is it necessary for the registrar and the clerk both to be in attendance?—I should say not. If the clerk is sufficient, then it would not be necessary for the registrar to attend.

49,094. (*Lord Mersey.*) If Mr. Bradford is there, he is enough, as a rule?—Perfectly so, and also Mr. Roper, who at present attends the judge, is perfectly sufficient.

49,095. (*Chairman.*) Then your suggestion is, that the number of first class clerks ought to be increased by two?—By two. There is a petition or request by the clerks stating their scheme for the improvement of

the clerks, which has been prepared by the clerks themselves, and I should like to hand it in.

49,096. I think the Commission have already received an application from the clerks which, I presume, embodies that scheme?—Yes, I have a copy here. It is both of the second class clerks and the third class clerks, and I should strongly support their application.

49,097. What is the present system of promotion from one class to another?—Seniority, provided they are sufficiently qualified for the work.

49,098. In practice, do you find that seniority is generally followed?—As a rule I think so, though not in every case.

49,099. Looking at the list, it would appear that there is no third class clerk who has been longer in the service than any of the second class clerks?—I believe that is so.

49,100. You said appointments are always made to the third class now?—Yes. I do not think any have been appointed direct to the second class, certainly for some long time.

49,101. Promotions are made by the Lord Chancellor on your recommendation?—By the Lord Chancellor, but I will not say quite on my recommendation; they generally ask whether we approve, or whether he is a suitable man.

49,102. When there is a vacancy in one of the higher classes, do you then make a recommendation?—Yes.

49,103. Or does the Lord Chancellor say: "I propose to appoint Mr. So-and-so; is he suitable?"—Somehow or other the applications generally come through the Senior Registrar's Office, and we forward them to the Lord Chancellor with any remarks we think proper or right in the case.

49,104. Do the clerks in the third class actually apply for promotion if there is a vacancy in an upper class?—Yes. Whenever there is a vacancy in the second class, the third class clerks generally apply.

49,105. That is a somewhat unusual system?—I think they generally apply, but, as a matter of practice, too, when there is a vacancy, the senior registrar suggests that So-and-so in the third class would be a suitable man for the appointment.

49,106. What are the hours of attendance in the office?—10 to 4.

49,107. Is that all the year round?—10 to 2 in the vacation.

49,108. Is that in all the vacations, or only in the Long Vacation?—In the Long Vacation and certain days of the short vacations, the same as in the High Court.

49,109. Is there much work in vacations?—Yes.

49,110. Is there a distinction between vacation work and other work, as there is in the High Court?—Yes. We only sit during the Long Vacation one day in the week in court. Certain matters, for instance, applications for discharge of debtors, are not considered as vacation work unless there is something special. If there is anything special requiring it, of course an appointment is made to hear it.

49,111. But the work of the office, the searches, and so on, goes on as usual?—The searches go on. I have a return here giving a comparison of the work done and fees taken during term and vacation. The petitions filed during term, the same number of weeks as in vacation, are 335. The petitions filed not in term but in vacation are 294.

49,112. So there is not a very large difference?—Not a very large difference. The number of bankruptcy notices in the same period are 771 in term and 627 in vacation. The number of searches in the office are 2,975 in term and 2,089 in vacation—about 900 difference.

49,113. (*Lord Mersey.*) By "term," I suppose you mean the sittings and not the old-fashioned term?—Yes, sittings.

49,114. (*Chairman.*) What holidays do the clerks get in the year?—They get six weeks' holiday in the year.

49,115. Is that the whole of their holiday. Do they get any of the legal vacations in addition?—That is the whole of their holiday.

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49,116. Is there any age limit for retirement?—No, none.

49,117. Neither in the case of the registrars nor in the case of the clerks?—No.

49,118. What is your opinion as to the question of fixing an age limit?—There may be instances where a retiring age limit is not only desirable but necessary. As a general principle, however, I do not think it would be absolutely beneficial to this branch of the public service, but if it is thought to be desirable to introduce an age limit with power of extension in exceptional cases, it ought not to apply to the present officials, who were appointed and accepted office without any such limitation.

49,119. In the case of the clerks, do you see any reason why the rule which applies in the Civil Service generally should not apply in your office?—Not as a rule, but perhaps I am a prejudiced witness against an age limit.

(Chairman.) If I may be permitted to say so, you yourself are the best argument I have yet come across in favour of the absence of an age limit.

(Lord Mersey.) I absolutely agree.

49,120. (Chairman.) As regards the organisation of the office generally, have you any reforms or changes to suggest, or do you find it satisfactory?—The arrangements at the office are perfectly satisfactory at present.

49,121. Does the work fully employ the office staff that you have?—They have quite full employment.

49,122. Have they often to stop beyond the fixed office hours?—They do occasionally. I may say that as regards the judge's clerk, I have a return here from him in which he shows that for the last few years he has worked over hours between 300 and 400 hours every year. A great deal of the work he has had to take home, and the other clerks occasionally have to stay, especially the registrars' clerks—when we sit in court they have to stay later.

49,123. But usually they would be able to get away at the end of their regular hours?—As a general rule, yes.

49,124. Is the taxing work arising out of proceedings in your department done by Mr. Tanner and his staff?—Yes, he is a taxing master with three clerks.

49,125. Do you find that that work is done in a satisfactory manner?—Perfectly so.

49,126. The question has been raised whether that taxing work should be transferred to the Central Taxing Office. Do you think there would be advantage or disadvantage in that?—It would be extremely inconvenient.

49,127. It is more convenient having it in the same building?—It would be much more inconvenient if transferred to the Central Office. The Taxing Office has to have reference to files of proceedings; the master may require in one day seven or eight different files of proceedings to be brought up to him from the Record Office to enable him to tax the various bills of costs thereunder. Every day he requires constantly a dozen proceedings. It would be extremely inconvenient for it to be transferred to the Central Office, not only inconvenient to the taxing master, but also, I think, to the profession.

49,128. (Mr. Graham Wallas.) The clerks in the office are under your direct control and supervision?—Yes.

49,129. That is to say your personal control and supervision?—Yes.

49,130. Do they keep a time-book?—There is a time-book which the clerks sign on their coming in in the morning.

49,131. Is that shown to you at intervals?—I have looked at it occasionally. I leave it, if I may say so, very much to my chief clerk. If he has any complaints he would bring them before me.

49,132. Do the registrars' clerks sign the time-book?—They do not. When the time-book was established a good many years ago, they were exempt because of the peculiar nature of their duties, and their attendance on registrars late in court, and so on. They were exempt the same as, I think, the Chancery clerks are.

49,133. What are the ordinary hours during term time?—10 to 4.

49,134. And during the Long Vacation?—10 to 2, and on certain days in the shorter vacations 10 to 2.

49,135. If the two first class clerks were appointed as you suggest, would that fact change their duties at all?—Not the slightest.

49,136. It would be simply a change in their status and pay, and not a change of duty?—A change of the pay; that would be all.

49,137. At present a clerk is appointed always in the third class?—Yes, now.

49,138. And he is appointed apparently at about the age of 20?—20 to 23.

49,139. He has normally been a law clerk doing ordinary work in a solicitor's office?—Yes, generally speaking.

49,140. He has always hitherto gone by pure seniority to the position of a second class clerk?—Generally by seniority. I cannot say quite whether it is so in every case.

49,141. And as a second class clerk it may be his duty, when he is sitting in court in the absence of the registrar, to tell a distinguished judge what the law is?—I will not say that quite.

49,142. (Lord Mersey.) It certainly is not his duty to do it?—No.

49,143. (Mr. Graham Wallas.) It may be his privilege?—That may be so. He may be competent to do it, but I do not know that he is.

49,144. Do you feel if a man is going to proceed by mere efflux of time to a post requiring qualities such as are involved in action of that kind, it would be well to secure that he should have high educational qualifications when he comes in?—It would be much better for him.

49,145. You agree that in all other Government departments, except the judicial departments, the clerks are appointed in different grades, and the purely routine work is done by a clerk who is appointed for that, and who is not upon the rota by ordinary promotion for the higher intellectual work. Would it be a good thing if that were introduced into your office?—I think our present arrangements are very good.

49,146. Since you are responsible for the whole control and supervision of the office, the question, for instance, whether typewriting should be introduced depends upon your decision, does it not?—No, I do not think so.

49,147. Then upon whose decision would it depend?—I do not think the question has ever been raised, but it is a matter for the Scrivenery Department, I should think.

49,148. But there is other writing done in your office at present besides that done by the scriveners?—Not much.

49,149. The scriveners have typewriters in their room. Has the question ever been raised whether they should write for you in longhand or in typewriting?—It has never been raised. I do not know that the scriveners have any typewriters in our department. I am told they have not.

49,150. Then, as far as you know, the question of whether typewriters should be used for this large mass of work for which 72*l.* per month is paid by the public has never been raised?—No, never.

49,151. Has it ever been considered whether women typists might be employed?—No.

49,152. As far as you know, that question has never been raised in your long experience?—Never; I have never raised the question of typewriting.

(Sir John Hewett.) I presume that when the judge consults the clerk it is about a definite point of law and procedure, and not upon an intellectual problem?

(Lord Mersey.) That is absolutely true. What I meant by my interruption was simply this, that on a question of practice a judge will frequently ask the clerk, who knows it much better than he does, what the practice is.

(Sir John Hewett.) I think I mean exactly the same thing, and I only wanted to get it on record.

49,153-4. (Sir John Kempe.) The classes of clerks coming to the office appear not to be arranged in relation to duties. I think you admitted that. They represent very little relation to the importance of the duties, that

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is to say, some of the second class at present do first class work, and the third class do second class work, overlapping to a certain extent?—Yes.

49,155. Is there any discontent in the office as to being kept waiting for promotion?—Yes, there has been.

49,156. That, of course, is the case more or less in all departments, but in every legal department the proportions of the classes are different, and, therefore, in each department the prospects of promotion are different; that is to say, if you have a large top to the classes there is quicker promotion than if you have a small top to the classes?—We have a small class at the top compared with other departments.

49,157. In your office, do you think it might suit the organisation better to have what is called the Service scale? You know what the second division is; that is to say, a clerk goes in at the bottom and rises through classes, but the classes merely represent disciplinary checks. If a man is good enough he goes into the section above, without waiting. There is no question of the relation of the duties. Would you say that in your office a Service scale like that would be better than a division into classes very imperfectly representing duties?—No, I do not know that it would. I am very satisfied with the present arrangement.

49,158. You do not mind a man waiting at the top of the class until there is a vacancy. You would not prefer that he should go on?—Yes, I think so.

49,159. Of course, the Service scale is more expensive, and you would have to have rather lower salaries if you had the Service scale; but you prefer it as it is with the better salaries?—Do you mean that when he has served a certain time and gets to the top of his class he should have an opportunity of getting a higher salary?

49,160. That is what the Service scale is; as soon as a man reaches the top of his class he goes into the next scale, provided he is efficient?—Instead of going into the next class they get a higher salary.

49,161. It practically comes to that, that instead of going into a new class he gets a higher salary, and goes

straight on according to the Service scale?—I should like anything that would improve their position.

49,162. Would you be willing to have a rather lower scale of salaries provided that they could count upon going right through from the bottom to the top, if they are efficient. Probably you cannot answer that?—I have not considered it.

49,163. (Mr. Matheson.) You told us that you work in the Long Vacation, and the work did not seem to be very much less than that in term time, and at the same time you said that the hours were from 10 to 2 in vacation. Do you find that that is enough to get the work done?—Not always, and they have to stay late very often.

49,164. The clerks are not supposed to have the right to go away at 2 if there is work waiting for them?—If there is work to be done they stay if required.

49,165. (Mr. Boutwood.) One question which arises rather out of the proceedings before this Commission at an earlier stage of its work: I received an impression then about changes that have taken place in the public service in course of time, and I wondered how far your experience would point to anything of the sort in the legal offices. You can look back for a good many years in a public department. How do you think the present ordinary clerical staff compares with the similar staff of 30 or 40 years ago?—I think it is very much the same. We had a very good staff of clerks 30 or 40 years ago, and some of them we still have. We have one certainly who was clerk 30 or 40 years ago.

49,166. (Mr. Graham Wallas.) Can you throw your memory back 70 years? Is there any marked change in the composition of the ordinary clerkships now as compared with 70 years ago?—I think we have a better class of clerk now than we had 50 years ago.

49,167. But not better than you had 30 or 40 years ago?—I say they have always been improving, I think. Certainly I think we have a very high class staff of clerks now. Our second class clerks are very good. There are one or two papers I should like to hand in which might be useful, I think.

Mr. EDWARD MANSON, called and examined. Mr. THOMAS BARNES (chief clerk) was in attendance.

49,168. (Chairman.) (To Mr. Manson.) You are Registrar in Bankruptcy specially in charge of the Companies (Winding up) Department?—Yes.

49,169. How long have you held that office?—I was appointed in November 1912. I have held it two and a half years.

49,170. What was your experience prior to your appointment to that post?—I had been a practising barrister in Chancery, and I had been in Sir Francis Palmer's chambers, who, as you know, is a great company expert. I had been with him for several years, but before that I had written a great deal on company law—books and articles.

49,171. (To Mr. Barnes.) You are a first class clerk in the same department?—Yes.

49,172. How long have you been in the department?—I have been there ever since the office was established in 1892.

49,173. How long have you been a first class clerk?—Since 1895, but I was appointed in 1883 in the Chancery chambers, and I went over when the office was established.

49,174. (To Mr. Manson.) When was the present system of companies' winding-up instituted?—In 1891, in pursuance of the Companies' Winding-up Act, 1890.

49,175. Before that time the companies' winding-up had been conducted in the Chancery Division?—Yes.

49,176. That is to say, it was dealt with by the Chancery masters, the Chancery registrars, and the taxing masters?—That is so, and then a special department was created under the Act to meet the new machinery, that is, the machinery of the Board of Trade and the official receivers.

49,177. The effect of that Act was to take the work of companies' winding-up away from Chancery, and to create a self-contained Winding-up Department under a registrar?—That is so.

49,178. The whole of the business, including the filing of all documents, the making of orders, and the taxation of costs, is done in the department?—That is so.

49,179. What is the relation of your department to the Board of Trade?—There is none, except that the official receiver, who takes possession of the assets on a winding-up order being made is an official of the Board of Trade; but Lord Justice Vaughan Williams used to say he is also an officer of the Court; primarily he is an officer of the Board of Trade. Immediately on a winding-up order being made, the official receiver becomes the official receiver and liquidator. He then summons a meeting of the creditors and contributories of the company, and calls upon them to decide whether they will have the official receiver continued as liquidator or whether they will have a liquidator of their own choice.

49,180. The relation is much the same as the relation between the registrars in ordinary bankruptcy matters, and the Board of Trade receivers in Bankruptcy?—It is.

49,181. Are the Board of Trade receivers in companies' winding-up the same persons as the official receivers in ordinary bankruptcy?—No, there are three separate official receivers in companies' winding-up.

49,182. Whose work relates solely to companies?—Yes.

49,183. What is the ordinary course of proceedings in a company's winding-up? How is it initiated?—By a petition presented usually by a creditor.

49,184. Or by the company itself?—The petition may be presented either by a creditor, a contributory—that is, a shareholder—or by the company itself.

49,185. (Mr. Coward.) This is a compulsory liquidation?—Yes, I am speaking of that. The Act of 1890, I ought to say, for the purposes of the machinery

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created by the Act, related only to the companies ordered to be wound up compulsorily. Voluntary windings-up were left alone, but they have really been brought into the same machinery, because now applications can be made in voluntary windings-up to me or to the Court, and the same relief can be given under section 193 of the Act as is given in a compulsory winding-up. Any creditor or contributory, or the company itself, can make an application in relation to any matter occurring in the voluntary winding-up for guidance or decision. So that we have in this department the administration under a voluntary winding-up as well as under a compulsory order, and it represents a very large amount of the work done.

49,186. That would be where applications are made?—Only where application is made. Otherwise there is no control except that a voluntary liquidator has to send in quarterly reports to the Board of Trade to satisfy them as to how the voluntary winding-up is proceeding.

49,187. (*Chairman.*) Then a voluntary winding-up can be conducted without the control of the Court, except so far as is implied in those quarterly reports to the Board of Trade?—Yes; and in the power of applying to the Court for advice or direction in any matter which occurs.

49,188. Is the majority of the business that of compulsory winding-up or voluntary winding-up?—Far the larger number of companies are wound up voluntarily. I have the last return here, and perhaps I may give the figures. The number of companies ordered to be wound up was 137, according to the last report.

49,189. (*Lord Mersey.*) For what period?—That is during the year 1913, which is the last return. The number of voluntary windings-up was 1,799.

49,190. (*Chairman.*) Is that in the High Court only, or does it include the County Courts?—That includes the whole of the windings-up.

49,191. But the number dealt with in County Courts is not large?—It is not large, as far as I know. The result is that 90 per cent. of the companies liquidated are wound up voluntarily. Then there is another large proportion of companies that are struck off the register as defunct; they escape without any control at all.

49,192. Who initiates the procedure for that purpose?—The Registrar of Joint Stock Companies, if he does not receive the required returns within a certain time, sends notice to the company that they must send them in, and if they do not do so he automatically strikes them off, and they are done with.

49,193. Does that come before the registrar?—No. That is a matter which I think might well receive consideration, because there are not less than 1,035 of those companies in 1913 that have simply disappeared without any inquiry into their antecedents.

49,194. If any contributory wished for inquiry he could initiate proceedings for the purpose, I suppose?—He could, only generally it is a case of there being no assets and there is nothing to be got. The Board of Trade has power of inquiry, but it has to be set in motion by somebody, and there is nobody, as far as I know, who is concerned to set it in motion.

49,195. (*Mr. Coward.*) And it costs money to do it?—Yes.

49,196. (*Lord Mersey.*) And it is not worth doing?—No, there is no result to be got. Of course there may be misfeasance which might be got at. I think it represents a very unsatisfactory state of things that such a large body of companies should escape entirely uncensored or uninquired into.

49,197. There are a large number of companies which die of inanition and never do any work?—Those are the companies that I allude to.

49,198. As I understand, if they do no work for 12 months they can then be struck off the list?—That is so. If they cease to carry on business for a certain period—12 months I think it is—they are struck off the list automatically.

49,199. (*Mr. Coward.*) You mean, make returns; if they do not make returns is the point?—No, that is an independent cause. If a company has ceased to carry on its business, it is a cause for winding up.

49,200. (*Chairman.*) The automatic striking off is for failing to make returns?—Yes, that is so; only if a company has not carried on business for 12 months, it has ceased to make returns.

49,201. The company might do no business but yet make returns. A company may remain as a shell, and it may be desired to retain it as a shell for some future use?—Yes, the company may be dormant for a time and may revive.

49,202. You have told us how the proceedings may be initiated by petition from a contributory, a creditor, or from the company itself?—Yes.

49,203. Does that petition come before the registrar?—No, only in the initial stages. It is my business to see that everything is in order before it comes before the judge in winding-up, that the statutory affidavit has been filed and notices sent, and the petition properly advertised.

49,204. Has every petition for winding-up to come before the judge personally?—Yes, every petition.

49,205. Then if he makes an order for winding-up, how does the case go on?—In that case the official receiver becomes, as a matter of course, the provisional liquidator. He becomes the official receiver and liquidator, which is his proper title, provisionally: that is subject to the power of creditors and contributories to choose a liquidator of their own for the purposes of the winding-up.

49,206. Then the liquidation proceeds?—Yes.

49,207. How far does the liquidation come under the control of the registrar?—The official receiver's first step is to summon meetings of the contributories and creditors to determine whether they will have him as the liquidator of the company or have a liquidator of their own. If the creditors and contributories at the meeting are unanimous in wishing a particular person to be the liquidator for the winding-up, then he is appointed, and the official receiver transfers the assets and hands over the books and everything to him. If there is a difference of opinion between the meetings of creditors and contributories, it is brought before me, and I have to decide on the appointment, subject, of course, always to the liquidator, who is the choice of the meeting, being a fit and proper person. When he is appointed he enters upon his regular duties, that is to say, of getting in the assets, ascertaining the creditors, and making calls on the contributories. Getting in the assets includes making calls upon the contributories for the purpose of satisfying the debts of the company. I ought to say that before that is done the official receiver calls upon the directors to submit a statement of affairs as to the company and its dealings generally and assets, and that is done before the meetings of the contributories and creditors are held, in order that they may be posted up in the state of the company's affairs and exercise their discretion wisely.

49,208. When the liquidation has proceeded and when the receiver has got in all the assets he can and disposed of all the claims he can, does the matter come before the registrar again on further stages?—It is continually coming before me on the question of claims made to prove in the winding-up by creditors, and also in the matter of sanctioning calls being made on the contributories.

49,209. Those matters come before you?—Those matters come before me. Then there are constantly debenture holders' actions.

49,210. In what cases do they go on from you to the judge? Can the parties claim that a matter be adjourned to the judge?—No, I have a discretion as to adjourning. If I think it is a case which is quite plain, I make the order that I consider the proper one, and I leave it to the dissatisfied suitor to move to discharge my order before the judge.

49,211. As a form of appeal from you to the judge?—Yes, it takes that form; they move to discharge my order. But if it is a case of difficulty which ought to be thoroughly discussed, or involves a large amount, and the parties wish it, I adjourn it to the judge to come on as an adjourned summons before him to be argued by counsel.

49,212. Are you present in court when the judge is sitting?—No, I do not go into court. Mr. Barnes

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attends the court. I am entirely occupied, I may say, as a sort of judge in chambers in making orders.

49,213. Are there two judges who deal with the work of companies' winding-up?—Yes. At present it is assigned to Mr. Justice Neville and Mr. Justice Astbury.

49,214. Do they ever sit at the same time?—No, they sit alternate terms, one taking the work one term and the other the next.

49,215. So there is never more than one clerk required to sit in court with the judge?—No.

49,216. (Mr. Coward.) They are the two linked judges?—Yes. Mr. Barnes always attends unless he is unwell, and then the first class clerk attends.

49,217. (Chairman.) You mentioned debenture holders' actions?—Yes, they form a very important part of the work in my jurisdiction. Immediately on a compulsory winding-up order being made, any debenture holders' action which is pending in the Chancery Division against the company ordered to be wound up, is transferred automatically to us. All the accounts and inquiries have to be taken and the costs taxed, and all the very elaborate procedure connected with a debenture holders' action takes place in my department.

49,218. But unless a winding-up order is made, the debenture holders' action remains in the Chancery Division?—Yes, it goes on in the ordinary way.

49,219. Do you think that a satisfactory system, or do you suggest any change?—I think it would be very desirable that those actions should be transferred, but, of course, it would involve a heavier burden, not so much on myself, but on the staff of clerks who take these accounts and inquiries and make certificates.

49,220. Are there considerable differences in procedure between a debenture holders' action dealt with in your department and dealt with in Chancery?—There is no difference to speak of.

49,221. Would the work in connection with them be done by officers of the same class?—Yes. They could be dealt with in exactly the same way. It would only mean that the volume of our business would be largely increased.

49,222. You would do what the master does when it is in Chancery, and your clerks would do what the master's clerks do if it is in Chancery?—Yes. My work in relation to debenture holders' actions is not heavy. Of course, difficult questions arise often between the debenture holders and the unsecured creditors, and between the landlord's rights and the debenture holders' rights—those sort of things involve difficulty—but, as a rule, the bulk of the work in debenture holders' actions is done by the principal clerk, Mr. Barnes, and the first and second class clerks. I ought to say, with regard to debenture holders' actions, that they are very numerous, for this reason: that hardly any company is compulsorily wound up, or goes into voluntary winding-up, without having issued debentures—that is, exhausted all its borrowing resources. The debenture holders may not have asserted their rights before the winding-up, but either before or after the winding-up they, of course, do so; and it is a matter of course to give them leave, even after winding-up, to pursue their proper remedies. If it is a voluntary winding-up, they get leave to commence or continue proceedings in the Chancery Division as a matter of course.

49,223. Your suggestion is that it would be more convenient if all debenture holders' actions were dealt with in the Companies Winding-up Department and not in the Chancery Division?—Yes, I think so. I do not know what Mr. Barnes thinks. (Mr. Barnes.) I think they should be limited to the supervision cases as well as the compulsory. We should be overwhelmed if we took all the debenture actions in voluntary cases. The question was discussed when the order for transfer was made, and it was felt that we could not take the debenture actions in supervision cases; and so the order was limited to those actions with which the official receiver was connected, simply because it would be convenient to have the winding-up and the debenture action proceeding in one office. It was felt that the staff was not sufficient to take more, and that we should diminish the work in the Chancery Division.

49,224. The question of staff is another matter which might be met by a transfer of staff. Apart from that question of staff, as a matter of organisation, would it be more convenient that all company matters should be dealt with in the same department?—I think so.

49,225. I suppose considerable inconvenience must be caused if an action has to be transferred when half-way through from the Chancery Division to your department?—Yes; it is a difficult thing to pick up the threads of it. (Mr. Manson.) I should say there are other proceedings which are not connected with winding-up at all, like petitions to alter companies' objects; petitions for the reduction of capital, and petitions for the sanction of the Court to schemes of arrangement—all of which are outside winding-up, but which come chiefly before our department, and can be most satisfactorily dealt with by it. Our staff has special experience in those matters.

49,226. Do applications of that kind make a substantial part of the work?—At the present moment there are a considerable number of those matters pending before me in the initial stages, but they have to go ultimately before the judge in winding-up for his sanction. I give directions as to the proceedings for bringing them before the Court, the holding of meetings, advertisements, and so on.

49,227. Has every application for altering the objects of a company to go before the judge before it is granted?—Yes.

49,228. And every application to alter the title?—The name of the company can be altered with the sanction of the Board of Trade without going before the judge. When you petition to alter the objects of a company, it is sometimes necessary to alter the title of the company, because that is involved in an alteration of its objects, and the Court sometimes gives directions. Apart from that the change of name is a matter for the Board of Trade.

49,229. That gives us a general idea of the nature of the registrar's duties?—Yes.

49,230. As I understand, the registrar's functions are mainly, if not entirely, judicial?—That is so.

49,231. They cannot be said to be administrative?—No.

49,232. The administrative side of companies' winding-up is done by the receivers?—By the official receiver, yes, and by the receivers in debenture holders' actions and by liquidators in windings-up.

49,233. Can you give us some description of the work of the office?—My course of procedure is to hear the summonses which come before me, averaging 9 or 10 a day, perhaps 12, and to make a note in the file of what I consider the proper order in the case. It is argued sometimes at length before me, and counsel often attend. I make this note, and that is taken upstairs to Mr. Barnes or the chief clerk or second class clerks, and the order is drafted in the presence of the solicitors.

49,234. Who drafts the order?—The parties bring in a minute of the proposed order and this is compared with my note, and it is settled by the second class or first class clerks, and sometimes by the third class clerks. When drawn it comes back to me for signature.

49,235. Do accounts and inquiries constitute a substantial part of the work?—Yes, it is a very important part of the work.

49,236. By which class is that dealt with?—I should prefer Mr. Barnes to deal with the details of the work. (Mr. Barnes.) The judge makes the order, and it is upon his judgment that these are directed. The judge makes an order in court for accounts and inquiries in a debenture holder's action. Then that goes to chambers, and a summons to proceed is taken out, which comes before the registrar. The registrar then sends it upstairs to the officer whose duty it is to deal with that particular case.

49,237. That would be either a first or second class clerk?—Yes. Then he has the affidavits. Then all the debentures are produced before this particular clerk—one of the three—and notice is given to the holders of all debentures to produce them in chambers, to see whether they are in proper form, that the seal of the company is on, and that they are properly stamped.

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49,238. Who actually examines the debentures?—The clerk before whom the inquiry is proceeding.

49,239. A first or second class clerk?—Yes. When he has seen those debentures, and they are all in order, or if there is one doubtful with no stamp on it, or improperly sealed, or not properly executed according to the articles, a query is made, and the registrar will ultimately decide what is to be done with that particular debenture. Then the clerk proceeds with the inquiry. A list is brought in, and he answers the inquiry according to the terms of the judgment.

49,240. And he draws up a certificate upon the evidence?—Yes; according to the evidence.

49,241. Is the certificate ultimately signed by the registrar?—Yes.

49,242. Does the registrar go into the details of the matter at all?—Not as a rule. Supposing the clerk had a doubt, he would put a query upon it and ask the registrar to see it.

49,243. Unless the clerk queries it, the registrar, as a rule, would accept the certificate drafted by the clerk?—Yes, that is the practice.

49,244. Are there many other kinds of inquiries besides those inquiries into debentures?—In the case of reduction of capital, involving a return to shareholders, there is an inquiry as to who the creditors are. The Court does not sanction a reduction in such cases until it has inquired as to whether creditors are affected.

49,245. Would that be conducted by affidavit?—Yes.

49,246. Is there any actual examination of the parties in cases of that sort?—No, it is all done by affidavit.

49,247. The evidence given by affidavit is examined by the first or second class clerks?—Yes, one of the three clerks.

49,248. Is there any clear line of distinction between the work of the first and second class and the work of the third class?—No. Messrs. Bull, Johnson, and Marvin do the same work.

49,249. They are the first and second class clerks?—Yes.

49,250. Is there a clear distinction between their work and the work of the third class?—We have divided it as best we can. It is very important work that the third class clerks are doing now. In Chancery chambers a first class clerk will take a receiver's account, but our third class clerks, Wilson and Roper, take receivers' accounts, and they also draw up the registrar's orders, which is done in the Chancery chambers by a clerk in a superior class.

49,251. Are the registrars' orders ever of a complicated character, or are they simple?—Sometimes they are complicated.

49,252. Do they ever involve complicated matters affecting a number of different interests and the rights of a number of different parties?—Certainly. (*Mr. Manson.*) Yes; very complicated questions arise often with so many parties—secured and unsecured creditors, contributories, landlords, preferential creditors, and others.

49,253. And it is upon those orders that the receiver would pay out large sums of money?—(*Mr. Barnes.*) Not the receiver, because in a debenture holders' action the money is in court, and there is a printed order—what we call a registrar's order.

49,254. The paymaster would act upon it and pay out large sums of money?—Certainly, very large sums of money.

49,255. Are those orders drawn up by a third class clerk?—No; all those money orders either myself, Mr. Bull, Mr. Marvin, or Mr. Johnson draw up.

49,256. So the orders drawn up by third class clerks would not be orders for the paymaster?—No, they would not include those.

49,257. What else have the third class clerks to do?—There is the matter of taxation of costs: they vouch the bills, and take receivers' accounts.

49,258. Is not that done by the clerks specially attached to the taxing master?—The registrar is the taxing master officially.

49,259. Mr. Tanner does not do the taxing of your costs?—No. It is done in the department itself. There are a large number of taxations.

49,260. The detailed examination of bills is done by third class clerks?—They go through all the lengthy documents and vouch the bills as to those particular documents. The bill is taxed by Mr. Bull or myself or Mr. Marvin or Mr. Johnson, according to the division of the letters within which the matter comes, and after the bill is taxed it is sent up to one of the third class clerks to vouch the bill.

49,261. That is merely the verification of facts, and not the exercise of discretion?—Quite so.

49,262. The exercise of discretion is done by first or second class clerks?—By the clerk who taxes the bill subject to the right of the parties to go to the registrar if they think the clerks have gone wrong.

49,263. Is much work of a purely clerical character done by the third class—the keeping of books and registers, and filing of documents?—In the issuing room, where petitions are issued, all the books are kept, but we have only one clerk to do this class of work. One clerk attends to the public and one clerk is always keeping the books. There are two third class clerks in that particular room.

49,264. So the work of a third class clerk is partly of a clerical and routine character?—Yes, in the issuing room.

49,265. And partly work of a better kind?—Yes.

49,266. Such as verification of accounts, and so forth, but not work requiring the exercise of judgment and discretion. Is that a fair description of it?—Except, of course, that the men in the issuing room must have some knowledge as to what they are doing. They have to see that a petition is in order, and summonses issued in proper form. They have to have some knowledge of what they are doing. The judges say, "We will have a summons taken out in a particular form," and the issuing clerk has to see that the judge's directions as to practice are complied with.

49,267. They must have some knowledge of forms of procedure and practice?—Yes, in that way.

49,268. (*To Mr. Manson.*) Is the registrar appointed by the Lord Chancellor?—Yes.

49,269. Is there a statutory qualification?—No.

49,270. The clerks are also appointed by the Lord Chancellor?—Yes.

49,271. Are you satisfied with the class of clerks who are appointed?—I have every reason to be satisfied with the whole staff. I think they do their work admirably.

49,272. Have they, as a rule, had previous legal experience?—No, I think they have acquired it mostly in the office.

49,273. Do you consider that any previous legal experience in a solicitor's office is an advantage or not?—I think it is desirable for the posts of second and first class clerks.

49,274. At present new appointments are made to the third class?—Yes.

49,275. And the first and second class are filled by promotion from the third class?—Yes, that is how it works.

49,276. Would you say it was desirable that appointments to the third class should be made from among persons who have had some experience in a solicitor's office?—Yes, I think it ought to be a recommendation.

49,277. Would you make it a necessary qualification for promotion to the second and first class?—That is what I think, that it should be made a necessary qualification for promotion to second or first class clerkships that the candidate should have had some experience either in a solicitor's office, or obtained a certificate or diploma in some legal school.

49,278. Do you think there would be any advantage in recruiting for the office by competition?—Not certainly for the higher posts. I am not prepared to say that for the third class clerks open competition might not do very well, subject to that qualification for promotion that I suggested.

49,279. Then you would contemplate a third class recruited partly from persons with previous experience and partly not, but that those who had had previous experience should alone be qualified for further promotion?—Yes, I think so.

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49,280. (To Mr. Barnes.) What is your opinion as to a system of that kind?—I think a man who comes into the third class to issue summonses and take in petitions ought to have some legal knowledge.

49,281. You think he would be the better for previous legal knowledge?—In our office he goes to room 66, the issuing room, first. It will be his duty in a few days to take in a petition, but before he can take it in he must know what he has to look for to see that it is in proper form. He cannot do it if he has no previous legal knowledge.

49,282. Would it take him long to learn that?—Not one petition, but he must have a general knowledge of company procedure.

49,283. If he had served in a solicitor's office, would he necessarily have learnt the particular points which he has to know in your office?—It all depends from what office he came.

49,284. (To Mr. Manson.) Does the Lord Chancellor consult you about appointments?—No.

49,285. Has there been an appointment since you have been the registrar?—No, I have not been consulted, Mr. Barnes has been consulted. (Mr. Barnes.) The last three appointed were sent up to me first of all, and all three had been in solicitors' offices.

49,286. They were sent to you to be inspected?—Yes.

49,287. And you were asked to give a report as to their qualifications?—Yes, and I gave a report.

49,288. Were other candidates sent as well?—No, only those three.

49,289. That is to say, they were sent, and you were asked if you thought them suitable?—Yes.

49,290. You were not sent several candidates and asked which you thought the most suitable?—No. Each of those three men had been in a solicitor's office.

49,291. The suggestion has been made that you might have competition among persons who had served a certain time in a solicitor's office. Do you think that that would be a useful system?—(Mr. Manson.) For the third class I think it would be, because a knowledge of law is undoubtedly of great assistance all through the department. The clerk is met at every turn with questions of law.

49,292. (Lord Mersey.) Do you mean a general knowledge of law?—Yes, I think I should be right in saying a knowledge of the general principles of law.

49,293. That is a very wide thing?—I should not expect it of a third class clerk.

49,294. What age are these boys?—Mr. Barnes says there is nobody under 24 or 25.

49,295. What books would you suggest that they ought to study?—I think they ought to have a good acquaintance with company law and practice and mortgages, for instance.

49,296. That I can understand, but you said a general knowledge of law, which seems to me a tremendous thing?—Yes; well, one can never tell where general principles will not come in. I should rather have said commercial law. I think that would be better.

49,297. That does not appeal to me at all. What sort of commercial law? Would they have to know something about charter-parties and bills of lading?—No, I do not think maritime law would come in.

(Mr. Coward.) Dock warrants?

49,298. (Chairman.) Bills of exchange?—Bills of exchange very likely might come in.

49,299. (Lord Mersey.) I am afraid you would find your choice very limited if you wanted your man to know all this, would not you?—I would not say it should be made a *sine qua non* at all, but if a man had a good knowledge of law—the elementary principles I mean—I think it would be a recommendation for his appointment.

49,300. (Chairman.) How is promotion made in the office?—By seniority, speaking generally, subject to competence.

49,301. The promotion is made by the Lord Chancellor?—Yes.

49,302. On the recommendation of the registrar?—At present I have not yet been consulted because no vacancy has occurred. I do not know what the practice

is in that respect. (Mr. Barnes.) The candidate has to get a recommendation from the registrar that he is competent. Our difficulty in this office is that there are so few opportunities of promotion. It is in inverse ratio to the Chancery chambers; in the Chancery chambers there are more first class clerks at the top, whereas in the Company office there are only two first class clerks and so many third class clerks.

49,303. Do you suggest that promotion is unduly slow for that reason?—Yes. (Mr. Manson.) Yes. I think that is one of the difficulties of the department. There are several very deserving men who are clerks in the third class with very little hope of preferment. The result is that they seek preferment elsewhere and they are lost to the department.

49,304. Have many been transferred to other departments?—(Mr. Barnes.) Yes.

49,305. Because they found promotion slow?—They could not get it in our office, and so got transferred to Chancery chambers. I should think there have been about six or eight since the office has been opened—some of the best men we have had, two or three of these men are now the very best first class clerks in Chancery chambers.

49,306. Looking at it, not from the point of view of individuals, but of the work to be done, do you consider that there is work done by third class clerks in your office which is done by clerks of a higher class elsewhere?—Yes, there is no doubt about that.

49,307. That might cut in both directions; it may be that the work done elsewhere by second or first class ought to be done by third class clerks?—Quite so.

49,308. Do you think clerks of long experience would ever be suitable for appointment as registrars?—(Mr. Manson.) I think they very well might be. Mr. Barnes would be quite competent.

49,309. At present the statutory qualification would, as a rule, stand in the way?—Yes.

49,310. Apart from the statutory qualifications would you be inclined to make clerks eligible for promotion to registrarships, if there was one who had the personal qualifications necessary?—Yes, I see no objection to their being eligible.

49,311. Are the hours of attendance in term and in vacations similar to those in other legal departments, namely, 10 to 4 in term?—That is so. (Mr. Barnes.) Our office is open all the year round. It is not an office which closes in vacation like Chancery chambers.

49,312. Does the work go on without much change in vacation?—There is not very much work during vacation. The work decreases immediately the vacation commences.

49,313. (Mr. Coward.) The judge does not sit?—No.

49,314. (Chairman.) Are the hours in vacation the same as in term time?—No, shorter. They are from 11 to 2 in vacation.

49,315. And 10 to 4 in term time?—Yes, nominally, but we do not always get away at four. I am sitting with the judge till half-past four, and have work to do when I get back from court.

49,316. Have the staff in general to stop much beyond nominal office hours?—Very often, yes. There is a great pressure of business at times.

49,317. Do you consider that the staff is hard worked?—Not since 1912. There was a small committee, which was presided over by Lord Justice Swinfen Eady, which inquired into the staff, and we had the staff augmented by one or two I think, and since then we cannot complain.

49,318. Since then you have had enough staff?—Yes.

49,319. Is the work increasing?—The war has rather affected it. 1912 was about the high-water mark, as you will see by the returns. (Mr. Manson.) It shows a steady rise. The work has grown with the growth of joint-stock enterprise. As I dare say the Commission know, the number of companies registered has increased by leaps and bounds. In 1863 there were 700 companies registered; in 1880, 1,100; in 1890 it had risen to 2,470; and according to the last return, 1913, it was 6,782. That is nearly treble what it was when this department was first started. That is in England alone.

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49,320. (Mr. Coward.) That is the number of companies registered?—Yes.

49,321. (Chairman.) I suppose it comes in waves; you get times of boom when you get a great increase in the number of companies registered?—Yes.

49,322. And probably shortly afterwards a great increase in your work?—Yes, but the tide is steadily advancing, though occasionally it recedes. If you look at the returns you will see it has risen steadily from 700 to 7,000 since the present company system has been in operation, and naturally that increase has involved a corresponding increase in the amount of business in our department. Then we have the Birkbeck Bank and Australian Bank failures, and crises like that.

49,323. (Mr. Coward.) The Australian Bank failures gave you an enormous amount to do?—Yes. (Mr. Barnes.) The judge was then sitting until 7 or 8 o'clock in the evening; it was tremendous work.

49,324. Schemes were carried out in all those cases?—(Mr. Manson.) Yes, and the Bank of Egypt and Law Guarantee Trust cases involved an immense amount of work.

49,325. (Chairman.) In fact, any big failure which carries with it a number of other concerns gives you a large amount of work?—Yes. I should say apropos of the increase of business, that in 1900 creditors were given the right to apply to the court in voluntary windings-up, which they had not had before. Before that time, only contributories in the company could apply. That opened a new channel of business, and a large amount of work comes in that way into the department. Before that time they commenced an action in the Chancery Division; now they come direct by summons.

49,326. Do you consider the organisation of the office is satisfactory, and suitable for the work to be done?—I think it is very satisfactory. The clerks have been trained under Mr. Barnes, who has invaluable experience in these matters. Certainly, personally, I have nothing but praise for the staff.

49,327. Have you any alterations in the organisation to suggest?—No; it is the question of promotion which chiefly presses me.

49,328. That you have already explained?—Yes, I have mentioned that. Barring that, I do not think I can suggest any improvements.

49,329. (To Mr. Barnes.) Have you any suggestions to make as regards the organisation?—No, I do not think so.

49,330. How is your scrivenery work done?—It is done by the scribes of the Royal Courts. There is a branch in our building.

49,331. Do you use typewriting at all?—No.

49,332. Do you use shorthand at all?—No.

49,333. Would shorthand be of assistance in your work?—No, I do not think so. I use it myself when I am with the judge sometimes, when he is giving a judgment, and I want to take down a phrase or particular words. I find it very useful then.

49,334. But you do not dictate to a shorthand writer?—No. (Mr. Manson.) It is used in private examinations. An important part of my work is holding private examinations under Section 174 of the Companies Act.

49,335. Is that examinations of directors?—Of directors and promoters, and any person who can give information to the liquidator as to the dealings of the company with its assets. There are a great many of those, not quite so many recently as there were, but they furnish me with almost every afternoon's occupation, and in those cases a shorthand writer is always employed. I take a note myself.

49,336. You have a professional shorthand writer?—Yes, always.

49,337. Is there much copying work required in the department?—(Mr. Barnes.) Yes; the drafts of the certificates and drafts of judge's orders are a considerable number.

49,338. Those are copied in the Scrivenery Department?—Yes.

49,339. Would it be an advantage to employ typewriting for them?—I think it might be.

49,340. Are there any cases in which the public get office copies of documents?—Yes.

49,341. Are those at present written in longhand?—Yes.

49,342. Could not those with advantage be typewritten?—Yes, they would be much better to read.

49,343. Typewriting is easier to read and easier to produce?—Yes. (Mr. Manson.) I think it would be an advantage.

49,344. What is your opinion, Mr. Manson, as regards fixing an age limit for retirement?—I think 70 for the registrars is a good age, and, perhaps, 65 for the clerks.

49,345. Is there any reason why the ordinary rule should not apply to the clerks, that is to say, that they may retire at 60 and claim their pension, and that they must retire at 65 except in very special cases, where there is power to prolong?—I think that is a very reasonable arrangement, and I see no reason why it should not apply to this department.

49,346. Do you think it would be advantageous to apply it?—I think it would.

49,347. (To Mr. Barnes.) What is your opinion?—Speaking for myself, I was appointed when I was 23, so that I should have served my full time at 65, and I think, generally speaking, it operates fairly; but there are one or two cases in which it might not. One clerk who was appointed when the office was opened with special qualifications, came in at the age of 36, and the difficulty with him would be that he would have to retire before he had earned his pension. There are such special cases.

49,348. Where a man is appointed at a somewhat advanced period of life?—One came in at 36 with a special qualification. He would feel that very much; but, as a rule, I think the general consensus of opinion amongst clerks in the department is that they should retire at that age.

49,349. The junior clerks think that because it would have some bearing on the question of promotion?—I dare say. So far as I am concerned I should welcome it rather.

49,350. You say in your précis of evidence that you have found the result of giving good work and more responsibility to the third class clerks very satisfactory as regards its effect on the clerks themselves?—(Mr. Manson.) I think so. I think it stimulates their intelligence, and the responsibility alone is an incentive for them to do their best.

49,351. A man who has had some work of that better kind to do is, probably, better qualified for promotion when his turn comes than a man employed solely on mechanical work?—I think so. I know they feel it keenly when they have been transferred to the Chancery Division and put to a lower class of work.

49,352. They feel the monotony of the work?—Yes, and a sort of degradation.

49,353. (Mr. Matheson.) (To Mr. Barnes.) You went in as a third class clerk?—Yes.

49,354. What was your previous experience?—I had been seven years with Messrs. Mackrell, Maton, and Godlee, solicitors, in Cannon Street.

49,355. Are there any of the present third class clerks who have not been with a solicitor?—Certainly, we have two or three, I think.

49,356. They did manage to learn the business in the office?—Yes, they did; but they have been there many years, and have been passed over for promotion once or twice because of that.

49,357. (Sir John Kempe.) I see you have two first class clerks; the Bankruptcy Department only has one. Is that due to the larger number of registrars in the Bankruptcy Department?—Yes, I suppose that is so, but I know that it is a great hardship in Bankruptcy. I happen to know the clerk to the judge in Bankruptcy well, Mr. Roper, and he is one of the most indefatigable workers in Bankruptcy, but he remains a second class clerk.

49,358. Do you know why you have two first class clerks appointed to you?—In Bankruptcy there are four or five registrars who are registrars to the judge, and go and sit with the judge in court now. In Companies Winding-up Mr. Manson never attends the judge; I

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attend as registrar. The first class clerks draw up the orders, and the registrar has nothing whatever to do with Court orders except to initial them.

49,359. The different classes of clerks in the two offices generally represent in all respects some distinction in the work?—No doubt. In Bankruptcy there is no debenture holders' action and the clerks do not do that sort of work at all. (Mr. Manson.) Bankruptcy is much more simple than Companies Winding-up—more cut and dried.

49,360. Why are four registrars required in Bankruptcy and only one in your department?—I am afraid I cannot answer that; I sit sometimes in Bankruptcy as well. I am taken away from Companies Winding up, that is to say, I attend the judge once a fortnight when sitting in Bankruptcy. Still that does not answer your question, but tends rather the other way. I do not think the Bankruptcy Department is overworked at all.

49,361. When you say you are satisfied with your organisation, you do not mean that you think the chances for promotion are sufficient in the office?—No, I think that is the one difficulty.

49,362. And you can see no way out of that?—I suggested a method of an annual increase of salary after a certain age of meritorious service in the third division, if there is no vacancy.

49,363. As I was asking the last witness, do you know the Service scale where a man comes in at the bottom and rises right through to the top, and is only cut off from rising to the top if inefficient. That is in what is called the Second Division?—I do not know that.

49,364. Might not that suit an office like this, that is to say, clerks come in at the bottom and rise if efficient, and I suppose as they get to the top you would have enough clerks at the higher salary to provide for the higher duties?—I think that might meet the difficulty rather well.

49,365. It is more expensive, and you would have to put up with a lower scale if you had men going right through?—I think that is a good suggestion.

49,366. (Mr. Coward.) (To Mr. Barnes.) You have been through a course of training that is very good I should have thought for your post of so many years in a solicitor's office of position, and since then in your present office. It has been suggested that competition for entry into the second or first classes would be desirable. You say that it would be desirable that the clerks should have legal training?—Yes.

49,367. Supposing a man has been in a solicitor's office for, say, five or seven years, and then he finds that there is a post vacant in your office and applies for it, how are you going to examine him?—I know the class of case you refer to, of course.

49,368. That is the class of case that ordinarily would come before you if you were going to have a man trained in a solicitor's office?—Yes.

49,369. How are you going to make those people compete. Supposing that, not I myself, but somebody in the legal profession, write to you and say, "Mr. Barnes, this clerk of mine has been in my office for seven years, and I can thoroughly recommend him for your post;" could you have anything better?—Not from such a firm as yours, certainly not.

49,370. I mean, if you knew who was writing to you and giving that kind of certificate, would not that be the very best thing?—I should think so, certainly. I recollect the case of three men who came in in 1881 when they were 36 years of age as managing clerks from eminent solicitors' firms. They came in apparently with some intimation that they might be called upon to pass some examination. Of course they found it difficult at that age to do anything of the sort, but they had had enormous experience in the legal profession and were invaluable men, and ultimately their Civil Service certificates were granted them without examination.

49,371. And they have done well since?—Yes, they were three of the very best men we ever had.

49,372. (Mr. Graham Wallas.) (To Mr. Manson.) Is yours a pensionable post?—Yes, I believe so. I have never gone into the question of pension.

49,373. You were appointed in 1912?—Yes.

49,374. At the age of 62?—Yes.

49,375. Do you know whether any years were added to your service?—I believe it is 15 years for a registrar.

49,376. Are you under the 80ths scheme or the 60ths scheme?—I cannot tell you.

49,377. You do not know at what age, having been appointed at the age of 62, you will reach your full pension?—No, I am afraid I cannot tell you.

49,378. Was it necessary for you to get a Civil Service certificate?—No, I furnished no certificate.

49,379. You have here under your department certain messengers and book ushers?—(Mr. Barnes.) Yes.

49,380. One is J. Pike, who was appointed in 1911 at the age of 47?—He came in 1892. I should think he came to the office before the office was opened.

49,381. (Mr. Matheson.) He may have been temporarily employed before?—I only know that when the office was opened Pike was there in 1892.

49,382. (Mr. Graham Wallas.) Is he pensionable?—No.

49,383. (To Mr. Manson.) You state, in your notes of evidence, that in the case of the personal patronage of the Lord Chancellor the opinion of the profession is a sufficient safeguard?—Yes. I ought to have added to that, that the high status of the Lord Chancellor himself is a sufficient guarantee, but I think, coupled with the criticism of the profession, it is sufficient for the purpose.

49,384. The profession is a very ancient one?—It is very jealous, really, as to the appointment of properly qualified men to important positions.

49,385. That criticism of the profession has been in existence very many hundreds of years?—Yes.

49,386. Has it always been during those many centuries a sufficient safeguard?—I suppose jobs have been perpetrated, but I think they were less conspicuous in the old days.

49,387. Less conspicuous?—No doubt the profession is independent, but I think it was less disposed to be critical then than it is to-day. Patronage was looked on in former times as a personal perquisite of office rather than as a public trust.

49,388. (Mr. Boutwood.) (To Mr. Barnes.) Apparently the two first class clerks and the two second class clerks do very much the same sort of work?—Yes, to a certain extent.

49,389. The impression your evidence gave me was that they were rather the seniors and juniors of one class than two classes, if you judge them by their work?—Really it is this. There is so much to do that, for general purposes, we divide the letters A to F, G to N, and O to Z. Mr. Johnson takes A to F, Mr. Bull takes the middle letters, and Mr. Marvin the last batch.

49,390. But there is nothing in their work that really corresponds to the difference, for instance, between 280*l.* and 540*l.* in the salaries?—No, not so far as the ordinary work is concerned. I do not do that class of work. I do the same class of work as the registrar in Chancery.

49,391. You spoke of the Scrivenery Department in your office. Is that in any sense under your control?—Not at all. We simply send work down. They call three or four times a day for the work.

49,392. If you wished you could not say to them, This shall be done in typewriting and this in longhand?—I do not know. I might say that, and probably they would do it because they are reasonable people. I believe they have typewriters at the Courts now, but I have never requested it to be done. I have no control over them really.

49,393. But their whole method rests with themselves and not with you?—Yes.

49,394. (Chairman.) If you wished to make a change you would go and discuss the matter with the head of the Scrivenery Department, and see if arrangements could be made to introduce the change?—Certainly, I should go to Mr. Stringer.

Mr. EDWARD STANLEY ROSCOE, called and examined.

49,395. (*Chairman.*) What is the office that you hold?—That of Admiralty Registrar; or it used to be called Registrar of the High Court of Admiralty.

49,396. How long have you held the office?—Since 1904. I was assistant registrar from 1890 to 1904.

49,397. What had been your experience before that?—I had practised in the Admiralty Court, and had written a book on Admiralty law and practice. I had been reporter, first of all, for the *Law Journal* and then for the *Law Reports* in the Admiralty Court.

49,398. How did the present Court of Admiralty arise? It is the successor of the old High Court of Admiralty, is it not?—Yes. When the Judicature Act, 1873, was passed it was absorbed into the High Court as part of the Probate, Divorce, and Admiralty Division.

49,399. So that in its present form it dates from the Judicature Act?—Yes.

49,400. The organisation with a registrar, an assistant registrar, and a certain number of clerks, has been the same since the time of the Judicature Act?—Yes, it was altered in 1896 when the Admiralty Marshal's Department, which was a separate department, became part of the Admiralty Registry. At that time the Marshal's Department was quite separate. There were a marshal and two clerks. He had nothing whatever to do with the Registry, so to speak, but considered himself quite separate and outside the purview of the Admiralty Registry.

49,401. Will you tell us briefly the nature of the work that comes before the Admiralty Court?—It consists in trying cases of collision, cases of salvage, sometimes of wages, sometimes of necessities, and occasionally what are called co-ownership cases.

49,402. (*Mr. Coward.*) Bottomry?—Hardly any bottomry cases now. I do not think there has been a bottomry case for five years.

49,403. (*Chairman.*) I gather from the judicial statistics that salvage and collision are the two principal classes of case?—Yes, more especially collision. A large number of salvage services go to arbitration under what are called Lloyd's Agreements, or by agreement of the parties.

49,404. Do the cases of claims to seize ships by mortgagees come before the Admiralty Court?—Occasionally, but not very often.

49,405. Those cases are not common?—No, not common.

49,406. What are the duties of a registrar with reference to the business of the Court?—The registrar's principal and most important work is adjudicating on references; that is to say, assessing the damages. He has also to hear the summonses.

49,407. A case comes before the judge, and the judge refers the case to the registrar to determine the exact amount of damage, or the exact amount to be paid for salvage?—In a collision case, where a vessel has been found to blame, it is referred to the registrar and merchants to assess the damages; and all the damages, of whatever sort, whether of injury to the vessel or the resulting loss to the owners, are then assessed by the registrar and merchants. In a large number of cases the actual cause never comes before the Court at all; it is settled by the parties, who agree that one vessel is to blame, or that both are to blame, and ask for a reference to the registrar and merchants.

49,408. Is there an appeal from that assessment to the judge?—Yes; but it is more usually upon a point of law, or something involving a point of law; as a rule, parties do not appeal upon questions of fact.

49,409. In salvage cases does the registrar assess the amount of the salvage?—No; that is assessed by the Court.

49,410. Is that always done by the judge?—Always.

49,411. With the assistance of his assessors?—He is supposed to do it himself, and only to ask the assessors' advice on nautical points.

49,412. Besides references, what other work does the registrar do?—The hearing of the summonses for time; for examination of witnesses; for discovery of documents; and all the various interlocutory applications which take place in the course of an action.

49,413. All those are dealt with by the registrar?—By the registrar or the assistant registrar.

49,414. Does that give a complete account of his duties?—There are various other things. There is correspondence, questions as to fees of the Trinity Masters, arranging for the attendance of nautical assessors, and various points of that kind, and the supervision of the staff. Various points crop up from time to time on which he is consulted.

49,415. You also tax the bills?—Yes; all the bills of costs are taxed usually by the assistant registrar, and if the registrar has taken a reference in which there is any special point, and the parties ask him to tax the bills of costs, he does it himself.

49,416. There is an entirely separate division of the work relating to prizes?—I should not say it is separate. The Admiralty Registry is the Prize Registry, but the work, of course, only exists in war time.

49,417. Will you tell us what that work is?—It consists of the same sort of work as there is in an Admiralty suit. Most of the interlocutory work is settling the amount at which bail shall be given for release of cargo. That has been most of the interlocutory work at present. There are also orders for restitution, and there are other interlocutory proceedings. The marshal, of course, has the control, subject to the registrar, of the sale of the ships and cargoes, and their care; but that is abnormal work.

49,418. That is work which only occurs in war time?—Yes.

49,419. I do not quite follow what the functions of the registrars are in relation to that. Who is it who decides whether a prize is a proper prize or not?—That is for the Court to decide.

49,420. That is decided by the judge?—Certainly. There has also been a great deal of correspondence with all sorts of people asking that they shall be entrusted with the sale of the vessels, and inquiries from foreigners and from different embassies as to what was going on in regard to cargoes and ships.

49,421. The registrar deals with that correspondence?—Yes.

49,422. If the Court decides that the vessel or the cargo is to be sold, who has charge of the proceedings for selling?—That is the marshal's business. He instructs an ordinary shipbroker to sell them.

49,423. Is that under the control of the registrar, or is the marshal independent of the registrar in respect of those duties?—*Prima facie* he has to arrange for the sale, but if there is any question of difficulty, or as to charges, he consults the registrar about it.

49,424. Are the accounts of the sales kept in the Registrar's Office?—There is an Accountant's Department now, a separate department of the Prize Registry.

49,425. That has been created specially for the purpose?—Yes. It was quite clear that we had no staff for that purpose at all, so a chartered accountant was obtained, and clerks were appointed. The Treasury are very anxious that the whole thing should be carried out in that sort of way.

49,426. (*Mr. Coward.*) It is done under the Treasury in connection with the Procurator-General?—We have nothing to do with the Procurator-General.

49,427. But the Treasury have?—The financial part of the Treasury considers itself quite separate from the Procurator-General, and the authorities are sometimes annoyed when he releases cargo. The Treasury, as the Treasury, do not trouble themselves about anything except the financial part of prize work.

49,428. (*Chairman.*) Who is the Procurator-General?—Sir John Mellor.

49,429. What is his office?—He is the representative of the Crown—the Treasury Solicitor. I have never been able to find out yet where the term "Procurator-General" comes from. He is the Treasury Solicitor.

49,430. "Procurator-General" is the name used for the Treasury Solicitor, in respect of dealings with prize cargoes and ships?—Yes.

49,431. Is this Accountant's Department which has been created for dealing with prize money under your directions?—Yes; I should not venture to interfere with its work; but, generally speaking, I am responsible

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for it, and the accountant consults me from time to time about matters brought before him.

49,432. Is it part of your duty to sit in court when the judge is sitting?—Yes; that used to be done more than it is now. I find now there is not time to sit in court. I go once or twice a week. I always go on the morning when summonses and motions are heard. When I am not present the assistant registrar will go sometimes, providing his bills of costs and other work is not taking up his time, and at other times we arrange for one of the clerks to be there.

49,433. (Lord Mersey.) Can you tell us how the connection between the Admiralty Court and the Probate and Divorce Courts arose?—They were both courts which sat at Doctors' Commons in former times, and the practitioners in them were Doctors of Civil Law. I suppose, in the desire for uniformity, they were thrown into one.

49,434. When did that happen?—That was at the time of the Judicature Act, 1873.

49,435. Before that they were separate courts?—Before that they were absolutely separate courts. The same judge always tried Admiralty cases, and the same judge always tried Probate and Divorce cases.

49,436. That is before 1875?—Yes. Sir Robert Phillimore was the Admiralty judge when they were amalgamated, and Sir James Hannen, I think, was the Probate and Divorce judge.

49,437. (Chairman.) By whom is the registrar appointed?—By the President of the Division.

49,438. Is there a statutory qualification?—Yes; I think it is ten years at the Bar, or ten years as a solicitor.

49,439. Are the clerks in the office appointed in the same way?—Yes, subject to the approval of the Treasury and the Lord Chancellor, if they are appointed before the lapse of a month after the vacancy occurs.

49,440. That is to say, the approval of the Treasury and Lord Chancellor is required to the filling of a vacancy, but not to the nomination of the individual?—Not to the nomination of the individual.

49,441. The assistant registrar is also appointed by the President of the Division?—Yes.

49,442. Does the statutory qualification also apply to him?—Yes.

49,443. The present assistant registrar, I see, was appointed in 1904?—Yes.

49,444. Had he practised at the Bar before that?—Yes. He had been in practice at the Admiralty Bar.

49,445. Your staff consists of two first class clerks, three second class clerks, and four third class clerks?—Yes.

49,446. Is promotion usually from the lower class to the higher classes?—Yes; it goes by seniority, unless there is any reason to the contrary.

49,447. Has promotion by seniority often been departed from?—Twice that I know of; once on account of health, and once because a man was inefficient to do the higher and more responsible work.

49,448. Have the persons appointed to the third class generally had any previous legal experience?—No, never. They are appointed between the ages of 20 and 23.

49,449. Do you consider that legal experience would be desirable?—No.

49,450. It is not necessary?—No, I do not think so.

49,451. Any law that they have to know they can learn in the office?—Yes. I think it would be a good thing if, at the end of 18 months or a year, they passed an elementary examination in procedure, which would induce them to read about procedure, and know perhaps sooner a little more about the work they were doing, such as drawing up orders, and matters of that sort.

49,452. At present they have to obtain a Civil Service certificate, and they have to pass an elementary examination?—They have to pass a qualifying examination.

49,453. And that is of a very elementary character?—Very elementary, and not very suitable in some ways.

49,454. Do you suggest that the examination should be made more of a test?—No, I do not think so. I think the present examination proves that they are

fairly well educated, and a little bit more would not make very much difference. They are well educated and intelligent, and they come to us generally from a public school; two, I think, were at Westminster and two at St. Paul's.

49,455. Do you find that the men who have been appointed are suitable for the work?—Quite.

49,456. But you suggest that it would be desirable to have an examination in legal procedure, which they should pass after they had been a certain time in the office?—Yes; I think it would make them get to know their work quicker, and they would pick it up, perhaps, more intelligently at first.

49,457. Can you describe generally the nature of the work done by the clerks?—It is what you would call clerk's work; it is receiving the affidavits, looking after the stamps, drawing up orders, sending out notices, and collecting the fees for the bills of costs. In the Marshal's Department it is doing the subsidiary work of the marshal—writing to the brokers, and looking after his fees—all what you might call the *minutiae* of the office.

49,458. It is clerical work, but not work requiring great discretion or judgment?—No. The clerks require to be industrious and fairly intelligent.

49,459. The suggestion has been made that open competition should be applied to the recruitment of the various legal departments. What would you say to that suggestion as regards your department?—I do not know why the legal departments should be omitted from the system of public competition.

49,460. You want men of good education and intelligence, but without special legal qualifications?—Yes.

49,461. And they could be obtained as well by open competition as by other ways?—Certainly. I do not know that you would get more satisfactory material, because my experience of my particular department is that the men we have got there are satisfactory. Of course, we take some trouble to find out and get, if possible, a satisfactory young man.

49,462. What are the hours of attendance in the office?—The normal hours are from 10 to 4, except in vacations, when they are 10 to 2.

49,463. Does the work go on much in vacations?—No, there is very little work in vacation.

49,464. What holidays do the clerks get?—They are supposed to have six weeks' holiday.

49,465. Do they, as a matter of fact, get more owing to the slackness of the work in vacations?—No, we arrange it so that there is always somebody there, and it works out at about six weeks' holiday for each of them.

49,466. But they have the easier hours of attendance in vacation?—Yes, they have that.

49,467. Do they often have to stop beyond the regular office hours?—Not in normal times.

49,468. Has the war given rise to additional work?—Yes, the clerks have been at the office till 8 and 9, and sometimes 10 o'clock at night in August and September, and sometimes on Sundays.

49,469. Was that on prize work?—Only on prize work.

49,470. In normal times the work can be done in office hours?—Yes, from 10 to 4.

49,471. The taxation is done in the office?—Yes, generally by the assistant registrar, unless there is some special request that the registrar shall tax a bill of costs, either because he has taken the reference or made various orders which have got complicated, and with regard to the costs of which the parties would like him to adjudicate.

49,472. A question has been raised as to whether the taxation work ought to be transferred to the Central Taxing Office. What is your opinion on that point?—I think that would be a mistake. I do not think it would be nearly so convenient for the solicitors' clerks, and I do not think it would be so satisfactory for the suitors. The assistant registrar is acquainted with the progress of the case from the beginning to the end. He can consult the judge if there is a question in respect of a witness. As regards the reference costs he can ask the registrar whether a witness was necessary. There would not be work enough for the assistant registrar unless he

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did have the costs to tax. Very often there is what they call a query standing in a bill—some point upon which they want further information, and the assistant registrar will say: "I will take that after the summonses 'when you are up here.'" So that it works in with all the other work very satisfactorily. All the papers are in the registry and would have to be sent across backwards and forwards to the Central Office. The taxing officers of the Central Office are not acquainted with the particular Admiralty work, and if specialisation is of any value I should think it would be applicable to the taxation of costs.

49,473. The bills are of rather a special character?—Yes. The most important part of them are the costs of the witnesses. They are seafaring witnesses coming from all parts, who have to be detained sometimes. Many of those bills come to very large sums in respect of the charges of witnesses—men brought, for instance, from Greece.

49,474. So you are decidedly of opinion that the taxation work had better remain where it is?—Yes. I think it is efficiently done now, and conveniently, as far as I know, and I cannot see any advantage in transferring it, certainly not from the point of view of the suitor, who is the person to be kept in view.

49,475. At present there is no limit of age for retirement either for the registrars or the clerks?—None.

49,476. Do you think there ought to be a limit?—I should think it probably would be desirable.

49,477. In the case of the clerks, do you see any reason why the ordinary Civil Service rules should not apply as regards the age for retirement. A man may retire at 60, and must retire at 65, roughly?—Yes, I should think that that is reasonable. Certainly, if you have a very old clerk—we, fortunately, have not any—it might be very disagreeable, and it would not tend to efficiency.

49,478. As regards the registrars themselves, it has generally been considered that if a limit was fixed for officers whose work was of a judicial character, it should be a higher limit than in the case of the higher clerical staff. What limit do you think should be established in the case of registrars?—I should think probably 70.

49,479. Do you find the present organisation of your office satisfactory?—Yes.

49,480. You have no alterations to suggest?—I do not see that any alteration is required. We endeavour to make everybody know something about the work; we move them about, and we give the two first class clerks the most responsible part of the work. One has to look after the references, and the other looks after the work connected with the court and judge's summonses, and attends the judge from time to time in his rooms. The others we change about from one room to the other, so that they may all know something of the work that is going on.

49,481. (*Mr. Shipley.*) If a candidate for the post of clerk fails in the examination, can he sit again?—I believe he can sit as many times as he likes, but I have never known of any case of sitting more than twice. They generally fail on their handwriting, and then they go to Clark's College, or some place of that sort, and go through a course of handwriting, and then they pass the second time.

49,482. If they fail in one subject, I believe they only take that single subject when they sit again?—I believe that is so.

49,483. The age of entry, I gather, is from 20 to 30, which just cuts out the ordinary boy who has left school at 17 or 18?—Yes.

49,484. Would there be an improvement if the age was lowered?—I do not think so. Before boys get to 20 the details of business or work connected with law and that sort of thing would be almost incomprehensible to them.

49,485. At the age of 30 you would hardly expect to get a good man coming in at the salary of 100*l.*?—We should not think of allowing anybody of an age as high as 30 to sit for examination.

49,486. I thought they could sit from 20 to 30?—Very likely; but it has always been a rule, I think, that nobody above 23 would be nominated by the President.

We have had numbers of applications from people of the age of 30; generally, they have been solicitors who have not succeeded.

49,487. Is promotion in your office almost entirely by seniority, or is it ever tempered by merit?—It is always seniority, unless a man is not fit to be promoted. There was one man who was not fit to be promoted because he suffered from fits, and as he would have had to attend the judge in his room we thought it undesirable to promote him, and, therefore, he was not promoted.

49,488. Am I right in thinking that clerks on the staff are not eligible to be promoted to registrars?—Yes.

49,489. But in the Probate and Divorce Registry they are, I think?—I believe they are.

49,490. Do you see any objection to it?—I think it would be better for them to be either barristers or solicitors. I think they would understand and manage the work of summonses and references better.

49,491. But could not one of your clerks become a barrister whilst he was still a clerk?—No; the Inns of Court will not allow any clerk at the Law Courts to enter as a student. One of our clerks was very anxious to be a barrister; in fact, he entered with the view of learning the work there, earning his livelihood and working for the Bar by reading after hours, but they would not admit him. I think, probably, the staff of the Law Courts would be improved if young men who had some idea of going to the Bar could become clerks. I think a young man of fairly good ability, who was a clerk, and thought he saw his way to getting on at the Bar afterwards, ought to be able to become a student.

49,492. (*Lord Mersey.*) We heard this morning that some of the clerks—I think second class clerks in the Bankruptcy Department—had become barristers while they were clerks?—I am surprised to hear it.

49,493. I was surprised to hear it?—I think they could not have said they were clerks.

49,494. I thought by the rules of the Inns of Court they were precluded?—There is no question about that. Lord Justice Buckley took up the case of one of our clerks and tried very hard personally to get the rule altered or some exception made for him, but nothing could be done.

49,495. (*Mr. Shipley.*) When you take a prize like the *Kronprinzessin Cecilie* what do you do with the mail?—You mean if there are some letters on board? I should think there was no writ issued against them, and that they were handed to the Post Office. There must be a writ against a particular article if it is going to be adjudicated upon, and I should think probably the mails were never seized at all.

49,496. (*Sir John Kempe.*) In your précis you say: "The officers of customs are the marshal's substitutes, and they receive one half of the fees for such work as they perform for him." They do not keep those fees, I think, but they are handed over to the Treasury?—I suppose they are, but I am not sure about that. What they do with the fees is outside our purview altogether. It was an arrangement between the Treasury and the Customs that for doing this work they should get some advantage. They do not get the fees in prize matters, certainly, but they expected to.

49,497. The clerks in the marshal's office are interchangeable with your office?—They are practically entirely one office. When the marshal's office was absorbed in the registry he had two separate clerks. One of those would in the ordinary course have become marshal, and as a solatium he was made a redundant first class clerk, and when he retired his place was not filled up. There was a reduction both of the marshal and a clerk.

49,498. When you have extra work, as you have now, you bring in men from outside temporarily?—We applied to the Treasury for leave to appoint a temporary clerk, and they settled what salary he was to receive, and then we got one.

49,499. Do you find temporary clerks pick up the work quite sufficiently for you?—It is mercantile work chiefly, and we arranged for the accountant or some gentleman in the city to find a clerk.

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[Continued.]

49,500. Shipping clerks?—Yes; we have had one temporary clerk, a young man who had just left Cambridge, who had a good head for figures. He has been put under the gentleman who looks after the insurance, and he has done very well; in fact, he has done so well that this gentleman would like to get him a place in the City when the war is over.

49,501. You are satisfied with the organisation of your office?—Yes, it is a small office, and I think it is well organised and does the work satisfactorily, so far as I know.

49,502. You say, "The present organisation secures a rapid and convenient despatch of business, which is essential if the shipping work is to be kept in the Law Courts." What do you mean by that exactly?—I mean by that, that if you take a long time over a case and let the thing drag on, the parties will go to arbitration. There are a certain number of arbitrators well known in the City, both legal and lay, to whom matters are referred, and the London Chamber of Commerce has its arbitrators; so that there is a kind of competition, and unless the work is done rapidly and satisfactorily, people will go then to business people in the City. I know our work is done satisfactorily. There was a case called the "Berlin," in which the Great Eastern Railway Company's steamer was sunk. They limited their liability, and all their claims were brought into the Admiralty Registry. A certain number of the loss of life claims were tried by juries, but many of them, 20 or 30, we tried, and 200 or 300 claims for personal injuries, and hundreds of claims for goods. The Great Eastern Railway Company sent us a letter at the end of it thanking us for our efficiency and the economical manner in which we had disposed of the business.

49,503. Those arbitrators are not official?—No, but they are efficient, and are always ready to take the work.

49,504. But if the people can get the work done outside, does it matter to you whether they go outside or not?—No, it does not matter to us, only we should like to keep the work. If the Law Courts exist for the purposes of litigation we should like to have it.

49,505. You think it necessary to keep up a practice even if it is more expensive to the public?—No, I do not think it is more expensive.

49,506. (Mr. Coward.) The questions most referred to private arbitration are those relating to salvage?—Certainly.

49,507. And there has been a very great deal of work taken from the court to go to private arbitration in that way?—Yes, a great deal.

49,508. A large proportion?—I do not think there are as many cases of salvage tried in the courts now as there used to be, but I could not say offhand. At the present time there are a large number in court, which is rather a curious feature. I do not understand why it is. Many cases go to arbitration on Lloyd's Agreements, in which there is a special clause that the amount of salvage shall be referred to arbitration.

49,509. That is quite right; but can you tell the Commission why that is? Have you any idea how it has come about that underwriters should prefer to have a decision of an arbitrator?—I think one reason is that they think they get better awards from arbitrators than from the Court.

49,510. (Lord Mersey.) By better you mean bigger?—I should have said larger.

49,511. (Mr. Coward.) But both of them agree—both the person against whom the claim is made and he who has to pay it?—Yes. That is what I have always understood is one of the reasons; and another is that it is—I will not say less prolonged, because it is not prolonged, but there is less trouble. The case is tried upon documents; each side gives the master's statement, and the award is thereupon made upon it.

49,512. I should have thought myself that the want of uniformity in the decisions as to the amount awarded in different cases makes the difficulty, and that is why to a very large extent the lay tribunal is selected?—I think in awarding salvage you ought, so to speak, to feel the atmosphere of the salvage case, which, perhaps, is not so easy unless you have been acquainted with commercial litigation for a long time.

49,513. I think you have hardly done your own particular court justice with regard to references. References involve most serious questions?—Yes, there are a good many difficult questions in relation to the law of damages that come up.

49,514. You may instance the case of the "Parana" which your predecessor dealt with?—Yes. There are many cases which come up involving questions of law, or questions partly of law and partly of fact.

49,515. And you are assisted by two gentlemen who call themselves merchants, who have had mercantile training and who are able men, selected for their ability?—Yes.

49,516. And who are most competent in cases of this kind?—Yes, I think they are, certainly.

49,517. They have been in the past?—I think they are now. They are not so easy to get now as they used to be, because a man in the City who has a certain amount of leisure, and at the same time is anxious to do some work, can get on to a board of a company, perhaps.

49,518. You have practiced at the Bar, and you have been, as I have been myself, before the late Mr. Rothery with two of his mercantile assessors, and I should think you would say that there was no more competent tribunal?—I should think it a competent tribunal. I should think that the small number of arbitrations in regard to damages is due to the fact that people find it a satisfactory tribunal. There is no doubt that the foreigners prefer rather to go there for assessment of damages than to go anywhere else in their own country.

49,519. Is such a tribunal one of the best that you could get under any ordinary circumstances if you have to have disputes settled?—I think it is a satisfactory tribunal, certainly.

49,520. You were speaking about the necessity for skill and learning on the part of your third class clerks in drawing up orders?—I do not think I said skill and learning in reference to drawing up orders.

49,521. Do not understand me as disparaging your office, but you would say that drawing up one of your orders is one of the simplest things that could be done?—Certainly. I do not think I used the words "skill and intelligence in drawing up orders." You want to be careful how you do it.

49,522. You want to be careful at anything?—Yes.

49,523. (Mr. Graham Wallas.) The registrar has a considerable correspondence, and does a good deal of his work by letter?—No, I should not say so.

49,524. Does he keep a regular register of letters?—No. We file all letters connected with each case and put them with the case, and we have a letter-book, but nothing more special than that.

49,525. Do you use shorthand in the office?—We have a young man who can write shorthand and type.

49,526. Which one is that?—I do not think he is down on the permanent staff, but only engaged by the week, and we can discharge him by the week if we wish.

49,527. You have a young man engaged by the week?—Yes, he is always there.

49,528. How much do you pay him?—35s. or 2l. a week now.

49,529. Do you use typewriting in your office?—Yes, we use it as much as we can. There is also a man who is called a writer, I believe the last, or very nearly the last, of the old copyists, and whenever he retires his place will not be filled up.

49,530. With regard to your young man who comes in by the week, you would not dismiss him unless he misbehaved?—No.

49,531. He will remain there for the rest of his life?—He will be much more likely to leave us and get to a better place where the pay is higher, because 3l. or 2l. 10s. is frequently paid for a good shorthand typist in an office.

49,532. Does the fact that you have to employ such a permanent temporary clerk as that indicate to you that it would be wise to have an ordinary assistant clerk or one of the lower grades of the Civil Service working in your office?—If he could do the work as well I should have no objection to that.

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49,533. Is there any work which the third class clerks do now which could, as a matter of fact, be done by a cheaper type of official who is not on the rota to go up?—No, I do not know that there is.

49,534. I see there is one third class clerk of the name of C. S. Roscoe. Is he any relation of yours?—Yes, he is my son.

49,535. What was his experience when he came into your department?—He had been in an office in the City first, and then he was in the Guardian Insurance Office.

49,536. Was the existence of the vacancy made widely known at the time?—It is never published in any way. The people who want to have their sons' names put down for it apply to me, and I put them down in a book, and the President's secretary also keeps a book for the Probate and Divorce Division, which is practically the same as for the Admiralty. If there is not a suitable name down on my book I go and speak to him. In some cases, if he has got a name on his book, it would come before the names in my book, but at this moment I have no name on my book.

49,537. At the time your son's name was down in the book with some other names, you thought that your son, on the whole, was the best candidate?—I do not remember that there was any other candidate at the moment.

49,538. (*Chairman.*) There are some ship-keepers under the marshal?—Yes, the ship-keeper and the superintendent ship-keeper. The present marshal was appointed a month after the outbreak of the war, and both he and I think that whenever there is a vacancy the posts ought not to be filled up, because the work can be done quite well by the Collector of Customs, and it would save some money, and there is no advantage in having them that I can see.

49,539. The Admiralty work in the provinces is in some cases done at the district registries?—Always in the provinces, unless it is County Court work. In Liverpool there is probably more County Court Admiralty work and Passage Court Admiralty work than in the district registry of the High Court itself.

49,540. At Liverpool, for instance, is there the option of bringing a case before the district registry or in the County Court?—No, but in Liverpool they will in a case which perhaps is a little above the County Court limit agree to try it in the County Court as if it was under 300*l.* In that way a good many small Admiralty cases are tried there. Then they have the Passage Court, too, there, which has Admiralty jurisdiction higher, I think, than the County Court jurisdiction.

49,541. You are speaking of the district registry of the High Court?—Yes.

49,542. In the case of those that go before the district registry, if the case turns out to be an important one, is it transferred to London?—Not if both parties are willing it should go on there, but it is tried up here.

49,543. But the whole of the preliminary proceedings may take place in the district registry?—Yes.

49,544. Is the district registrar in the performance of those functions in any way under you?—No, quite separate.

49,545. You cannot give him instructions?—The only way we have to deal with him is with regard to the appointment of days; then he consults us. If there is an application for a day he telegraphs, telephones, or communicates with us as to particular days which are vacant, and we let him know what days there are. When once the action is down for trial we look after it.

ONE HUNDRED AND TWENTY-FIRST DAY.

Wednesday, 17th March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. JOHN ROBERT CLYNES, M.P.

Mr. CECIL COWARD.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. FRANCIS AUGUSTUS STRINGER, called and examined.

49,546. (*Chairman.*) Mr. Stringer, you are a first class clerk in the Central Office of the High Court of Justice?—I am.

49,547. The department of the Central Office with which you are particularly concerned is the Writ, Appearance, Judgment, and Execution Department?—That is so.

49,548. You are the senior of the first class clerks in that department?—I am.

49,549. And you also have charge of the sub-department dealing with Letters of Request to and from foreign countries for mutual service of legal process and obtaining evidence?—Yes.

49,550. You are also Superintendent of Scrivenery for all the departments of the Royal Courts of Justice, including the Bankruptcy Department?—Yes. And Companies' Winding-up.

49,551. We have had evidence from the senior master as regards the work of the office generally; but we should like to have from you some observa-

tions as to the nature of the work?—The work of the department is divided into three rooms from A to K, and three rooms from L to Z.

49,552. You are speaking now of the Writ, Appearance, Judgment, and Execution Department?—And of the sub-department with regard to Letters of Request; that is a matter which is worked inside that department, as part of it. The three divisions on each side of the alphabet are divided into the Judgment and execution room, the writ room, where all commencement of actions takes place, and the appearance and search room in the centre, where the cause books are kept. It is arranged that the search room is in between the writ room and the judgment room, so that each of those rooms has access into the search room to get to the cause books, where everything is entered. That is the general system on which we work in the two divisions of the alphabet on the two sides of the corridor.

49,553. The work of the department consists, does it not, of receiving from the public documents of

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various kinds; writs, judgments, and so forth?—Yes, a very large number of documents.

49,554. Examining whether those documents are correct in form?—Yes.

49,555. And filing or making such record of them as is necessary for the system of the office?—That applies to the Writ Department particularly, and it applies to the Appearance Department also, and also when searches are allowed, and when certificates of non-appearance are given, and all matters leading up to judgment; and in the Judgment Department, of course, receiving the documents; the parties bring them prepared; but, of course, a judgment has very often to be redrawn; it has to be settled, and the terms of it have to be very carefully scanned to see that they are in proper operative form in accordance with the authority for the judgment which is brought with it—that is, the associate's certificate, or the evidence of non-appearance, or the pleadings; and it has to be seen there before judgment is entered that it is in accordance with the rules and decisions, and various matters affecting the entry of judgment, of which there are a very great number.

49,556. Then do you consider the work relating to judgments the most difficult part of the work of your department?—Yes, that and executions; there again, there are a whole number of decisions affecting writs of execution.

49,557. In the case of judgments the department is responsible for seeing that the substance of the document is in accordance with the authority?—Yes, and that it is in proper operative form, and that there is nothing in the judgment which in any way is not absolutely justified by the authority under which it is signed, whether it is a Rule of Court or an Act of Parliament, or whatever the authority may be; there are a great many authorities for it, and it has to be put into that form; and the importance of that lies in this fact, that any error in a judgment would vitiate the execution, in which case very serious results follow, because if anything is wrong with a judgment and it is acted upon, then the execution is wrong, and then there is an action for trespass, and all kinds of penalties apply, and it can never be rectified. When a judgment is once signed it cannot be altered.

49,558. (*Mr. Coward.*) But a mistake never does occur?—Well, I would not say that; sometimes the judgments are very difficult to enter, and sometimes there are questions in court as to whether we have done right or wrong on the terms of the judgment as drawn. We do have cases of that sort sometimes.

49,559. But it is a very rare thing?—They do not often upset us. They sometimes try to upset us—I do not say very often, but they do sometimes. I have had two cases within the last month in which they tried; they went before the judge about it. In such cases they have to apply to alter the judgment, so that if anything goes wrong it causes expense.

49,560. (*Chairman.*) The judgment is almost always drawn up by the solicitor, is it not?—Yes, the judgment is drafted by the solicitor. I am speaking now not of ordinary default judgments, but other judgments, of which there are a great many after trial, or on the official referee's report; all judgments of that sort require to be drafted in operative form, and must be right, otherwise consequences follow.

49,561. If you find something wrong, is it your business to redraft the judgment and put it right; or do you simply tell the solicitor that it is wrong, and he must bring something else?—We do it; we put it in the form we think is right. We do not issue a judgment until then. We might possibly find out afterwards that there is something wrong.

49,562. I am not talking about afterwards. When a solicitor brings a draft and you find there is something wrong in that draft, do you correct it in the department, or do you tell the solicitor that there is something wrong and he must correct it?—We should correct it. If, after a judgment had been complete and sealed, an error was discovered, and he had done nothing whatever under the judgment, we should consider that we had a right to correct it. Sometimes

in a judgment you have to go into the pleadings, or into the statement of claim and the statement of defence, because the terms in which the direction for judgment is given throw you back upon the pleadings; in those cases it has always been my practice, ever since I have been at the head of the department, when they are sent in to me, to make an appointment with representatives of both sides to settle the form of the judgment.

49,563. That is the practice in cases of difficulty?—Yes, as a rule.

49,564. Does it often occur that the solicitor's draft of a judgment has to be modified?—Yes, very often; they are very often altered. We often alter them; in fact, in a great number of cases, we put them right according to our method which we have got by use and by keeping precedents and by forms in certain cases.

49,565. By which class of clerks is that work of scrutinising draft judgments done?—In the department as they sit there, there is a first class clerk, a second class clerk, and a third class clerk, and they all do judgments; the third class clerk would be under the supervision of the others, but some of them become extremely good at the judgment work, and we are always trying to get good men from the third class to come in and take their share of judgment work. A judgment like that would go to the senior clerk in the room, and if there were any case of doubt about it, he would consult me upon it; then if there was any further doubt and I thought it desirable, I would say to the solicitor's clerk who came with it that it was desirable that we should have an appointment with the other side, that there were one or two questions which I considered not quite clear enough to put into the judgment without the other side being present, and in those cases we would make an appointment and settle it.

49,566. (*Mr. Coward.*) Might we not ask for an illustration to be given to us of this. I personally do not follow it. Might I ask you whether you could give us an illustration of what you mean?—Yes. It arises in various ways; it depends upon the documents on which we are entering judgment. Supposing we are entering judgment on a verdict for the defendant, then, say, the judge directs that judgment be entered for the defendant on paragraph 5 of the plaintiff's statement of claim, and for the plaintiff on paragraph 6 of the plaintiff's statement of claim, we should go to his statement of claim to see the pleadings, because naturally the pleading is not put in the form of the judgment.

49,567. But that is all you would say, is it not: "Judgment be entered for plaintiff upon such and such issue"?—No, that would not be operative; it would be a useless judgment which could not be executed. When the judge directs that judgment should be entered for the plaintiff on a certain paragraph, say, of one of the pleadings, that paragraph sets out the full claim, not in amount merely, but it may be title, it may be something to do with possession of property, or whatever it is; but when we are entering that judgment we should have to put it into such form that, supposing it were for recovery of property, land for instance, the sheriff could act upon it under a writ of execution, which he could not do if we merely say: "Judgment in accordance with something in some other document." The sheriff would not act upon that.

49,568. (*Chairman.*) The judgment has to contain a statement of the substance of the points on which a decision is given one way or the other, and not simply a reference to those points in the statement of claim?—That is so, because whatever we put into the judgment must go into the writ of execution as the sheriff's authority. If it says that he is to do it in accordance with something in the statement of claim, the sheriff will say: "I have nothing to do with that." You must put in the judgment: "Therefore it is this day adjudged" (and then it goes as the judgment of the Court) "that the plaintiff recover possession of" this, that, or the other, or a declaration of rights, or specific performance of a contract, for instance—that would take the regular recognised form that you find

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[Continued.]

in Seaton or Daniel, or any of the books; but it has to be put in a form in which it can be executed. That is the point.

49,569. (*Lord Mersey.*) In fact, the judgment is a self-contained document?—Yes.

49,570. And it is not to be read by reference to other documents?—No.

49,571. (*Chairman.*) If a case of special difficulty arises, do you often refer it to higher authority, to the master or the judge?—In case a difficulty occurs with regard to a judgment after trial in court, it cannot be referred to a master or to any judge except the judge who tried the case. In case of special difficulty, if there is such obscurity that we feel that we cannot deal with it—supposing the solicitor has come to the conclusion that he cannot put it into proper form on the direction that has been given, then he would ask: "What do you think; what can we do?" In that case I say: "The proper course for you is to see the judge's clerk and ask if it may go before him, and get a "more specific direction from the judge with regard "to this particular point," and, perhaps, I would put the point down in writing where the difficulty arose. In such a case the judge always gives a direction.

49,572. In fact, the work in relation to judgments is similar to the work done by the registrars in the Chancery Division, only the work of that kind in the King's Bench Division is of a much simpler character than that in Chancery?—Some of the judgments are quite as complicated, but the bulk of the judgments are of a much simpler character. The very great bulk of the judgments in the King's Bench Division are in default of appearance and in default of defence, and under Order XIV.

49,573. (*Mr. Coward.*) Ninety-nine out of a hundred would they not be?—Not nearly as much as that, but there are a great number of simple cases. Cases tried in court are not nearly so simple, and they all have to be put into an operative form of words to give effect to the judge's direction for judgment.

49,574. (*Lord Mersey.*) Most of the judgments are for a sum of money?—Yes, a great many.

49,575. And those are quite simple?—Yes; they require care, of course.

49,576. They have a horrible simplicity about them?—I quite agree.

49,577. (*Chairman.*) The work of that department and of the Central Office generally is governed largely by the rules of court?—Yes.

49,578. And they are continually being altered, added to, and modified?—They are.

49,579. Do you find that in practice the rules of court are clear and ready of application?—No, sometimes they are not, undoubtedly.

49,580. Do you find that sometimes confusion arises in consequence?—Yes. The principles, of course, in the rules are clear, but sometimes there is evidence that they are made without sufficient knowledge of the machinery which will have to give effect to them. I think, if I might be allowed to make a suggestion with regard to it, that it would very much avoid any rules being issued which are not workable without amendment almost immediately after they are issued, which very often happens, if there were on the Rule Committee, say, a master from the King's Bench Division, a master from the Chancery Division, and one of the registrars of the Probate Division, and possibly it might be thought desirable to add a taxing master also; if they were added to the Rule Committee, I think the rules would be more practical and workable after they left the Rule Committee.

49,581. Speaking of judgments, you mentioned that in those cases the matter does not come within the view of the master at all, you never refer to a master?—Of course, if there were any question of doubt which a master could settle it would be referred to him, but those questions that arise on a judgment are generally only referable back to the judge who gave the direction.

49,582. My point is this: You suggested that the Rule Committee would be improved by the addition of a master?—Yes.

49,583. My question was whether in all the matters that arise out of the application of the rules, the masters have the detailed experience of the working of the system which would be necessary in order to enable them usefully to assist the Rule Committee?—They certainly would in the King's Bench Division, and, I think, in the Chancery Division, too. The masters know how to carry out the rules; the masters are carrying out the rules, and the masters who control the departments would know with regard to the practice.

49,584. You think the experience of the masters would enable them to give very valuable assistance in framing the rules?—Yes, I think it would be a very great improvement in the Rule Committee.

49,585. Does the Rule Committee at present consist entirely of judges?—No, there are solicitors on the Rule Committee, and the Bar is represented.

49,586. (*Mr. Coward.*) One solicitor, I think?—Is that so? That is Mr. Winterbotham.

49,587. Yes, and Mr. Morton of Liverpool?—Yes, but is not the President of the Law Society a member?

49,588. No, I do not think so?—Then there are two, and the Bar is represented also. But there is no one representing the official machinery which has to give effect to the rules, and to provide that I think it would be necessary to take, as I have suggested, a master from the King's Bench Division, a master from the Chancery Division, and a registrar from the Probate and Admiralty Division.

49,589. (*Chairman.*) Have you any further suggestion to make as regards the detailed working out of the rules?—Yes, I have. Even then I think, when the masters were added to the Rule Committee, it must always be possible at the moment when a rule comes to be put into operation to find that there are certain details connected with the machinery, and with giving effect to it, in which amendment is immediately required, and lately it has been very urgently so under the Courts Emergency Powers Act, the rules for which are very difficult. I think the masters and registrar who are added to the Rule Committee should form a sub-committee with power to make practice regulations, if required, to give effect to the rules after they have been issued.

49,590. (*Lord Mersey.*) But is this sub-committee to have power to alter the rules?—No.

49,591. What is it to do if it is not to alter the rules?—It is not to alter the rules, but the committee might make just the same rules that you find the practice masters have made pages and pages of.

49,592. I do not understand what you mean; are there such things now?—Yes, there are pages of them that are acted upon every day in every part of the building, at least in every part of the Central Office, and they have been very valuable. Under Order LXI., Rule 33, they have power to make forms.

49,593. That I can understand?—And they make regulations. They also naturally make regulations for the control of the Central Office, and that is really adjusting the rules. They never can change a rule, of course.

49,594. Nor can they make additions to the rules?—No, they cannot make any rules; that is quite right.

49,595. Do you suggest that there ought to be an alteration giving to the masters power either to make additional rules or to alter existing rules?—No, I suggest that they should have power to make regulations for giving effect to the rules.

49,596. (*Chairman.*) Those would be purely internal regulations for the guidance of the office?—Yes, and it would be very valuable in the Chancery Division, as well as in the King's Bench Division, if there was a committee like that to make regulations in order to give effect to the rules—never touching the principle of a rule, but to give effect to the rule.

49,597. (*Lord Mersey.*) Could you give me an illustration so that I may understand what you mean?—I think I can give one that has occurred only just recently. Under the Courts Emergency Powers Act an application has to be made before any execution can be issued on a judgment. There were certain difficulties

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[Continued.]

that immediately arose and gave trouble. One was where the defendant was in default of appearance—had not entered any appearance. If he did not appear the plaintiff would have the right to enter judgment against him in default. Then when it came to enforcing that judgment the defendant was not before the Court, and could not be heard under the Courts Emergency Powers Act. He could not employ a solicitor, because he did not wish to appear, he did not wish to dispute the judgment against him, but he wanted to get the relief under the Courts Emergency Powers Act. There was a deadlock. Had there been a rule sub-committee the new rule that has been made just recently to deal with that might have easily been made unnecessary and the existing rules workable by a regulation.

49,598. But do you not know that the relief contemplated has been given by the rule?—Yes, but after there had been great difficulty and a great deal of delay.

49,599. Do you want some body constituted who can make that rule without going to the Rule Committee?—No, any required alteration of the rule would be sent to the Rule Committee for its sanction. I think myself it would be a very great assistance always to the working of the rules if there were some sub-committee which had special authority, not to make rules, but to make regulations for giving effect to the rules.

49,600. (Chairman.) Is there any authority at present which can do that?—Not to the extent that is needed.

49,601. Cannot the senior master give directions for the conduct of business?—In a case like the one I have just been citing there is nothing in the rule that authorises it. It does not say what is to happen when a person is in default.

49,602. (Lord Mersey.) Do not you think that is the fault of the rule itself?—I agree.

49,603. And that it should go back to the Rule Committee and they should be told to do the business properly?—I think it takes a good deal of time to get a thing through the Rule Committee.

49,604. I was going to ask you how often is the Rule Committee summoned?—I should like information with regard to that to be taken from some one else. I do not know. I have not looked into the matter.

49,605. Who summons the Rule Committee?—Sir Kenneth Muir Mackenzie, the Lord Chancellor's permanent secretary; he is secretary to the Rule Committee.

49,606. (Chairman.) He sets it in motion?—Yes.

49,607. (Lord Mersey.) I thought the Lord Chief Justice summoned the committee?—If the Lord Chief Justice expressed a wish to have a meeting of the committee, it would go to Sir Kenneth Muir Mackenzie, and he would call the committee together, I imagine; but it is outside my sphere altogether.

49,608. My recollection is that there was always great difficulty in getting the Rule Committee together, and the consequence was that rules waited, that rules that ought to be made did not come to the birth.

(Chairman.) If you found in daily practice in your department that there was some point in the rules that was difficult or impossible of application, what steps would you take; to whose notice would you bring it?—To the notice of the master. But those difficulties are often of such a kind that they would have no power to deal with them as practice masters. If there was something that a rule was obviously intended to cover, but it did not cover, if a sub-committee could make a regulation, and it came back with the formal sanction of the Lord Chancellor given to it, it could be put into operation. The Lord Chancellor is President of the Rule Committee. If there was nothing put in that touched the principle in any way, but merely gave effect to the intention of the rule, I feel sure that it would be an enormous assistance to procedure.

49,609. You spoke of the practice masters—what are they?—One master sits every day to take *ex parte* applications, and any matter in which a difficulty

arises in the department has to be referred to the practice master to decide, and he decides it.

49,610. Is that work taken by the masters in rotation?—Yes.

49,611. You have given us in your *précis* a statement of the duties of the different departments; we have already dealt with the work of the Writ, Appearance, Judgment, and Execution Department, and we have already had in evidence from the senior master something about the duties of the other departments, but I should like to ask you something further about the Associates Department. What exactly is the work of that Department?—They enter the trial.

49,612. What does that mean?—It means when notice of trial has been served that the entry of trial, as it is called, is made out in the Associates Office; they enter it upon the list. They receive papers for the Court, and the action is entered for trial.

49,613. And on the entry on that list depends the order in which cases come forward for trial?—Yes. Then they attend the courts, they sit as associates to the courts in the King's Bench Division, and they take down and make out the associates' certificates of the result of trial, and those associates' certificates are brought to the Judgment Department for judgment to be entered upon them.

49,614. Does their work, apart from entry for trial, consist entirely in court work?—Yes, mainly.

49,615. How many clerks are there in that department?—I think there are 12.

49,616. How are they distributed among the different classes?—There are one first class, five second, and six third class clerks.

49,617. So that a substantial part of the work, sitting in court and taking down and drawing up the associates' certificates, is done by third class clerks?—Yes, it must be.

49,618. When a man enters the department, how does he learn that work?—I am afraid I cannot answer that question. I do not know how he learns it.

49,619. In many cases he has not had any previous legal experience?—No, I suppose the head of the department probably will arrange for him to sit with one of the others, but that I do not know. I think that very often they want rather more experience than they have had before they take a court alone, I mean judging from the associates' certificates, they are not always very good, and they are very difficult. The juniors in the department sit in court with the seniors to start with.

49,620. While they are learning their work they sit with the seniors?—Yes.

49,621. Will you tell us—we have not yet got it upon the notes—the number of the different classes in each of the departments of the Central Office?—The numbers are as follows:—

Department.	First Class Clerks.	Second Class Clerks.	Third Class Clerks.	Total.
Writ, &c.	2	10	6	18
Filing	1	3	8	12
Associates	1	5	6	12
Summons and Orders	1	4	4	9
Crown Office	3	2	2	7
Bills of Sale	1	2	3	6
King's Remembrancer	1	1	1	3
Masters' Secretary	1	1	0	2

I may say that in the Crown Office Department the arrangement of the first class clerks is not quite right at present, it has got off the proper arrangement; it has three first class clerks and only four other clerks.

49,622. What would be the proper arrangement?—They ought to have only one first class clerk, and one of the present first class clerks ought to be in the Writ Department.

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49,623. How has that arisen?—It has arisen on promotion, owing to the difficulty of promoting by seniority someone who could do the work, for seniority is necessarily a governing feature in putting them up. It was very difficult to alter it, and that promotion was made as a temporary arrangement.

49,624. There appears to be a very considerable difference in the proportion of the three classes in the different departments; does that arise out of personal difficulties connected with promotion, or does it arise out of some difference in the work of the different departments?—I do not think it arises anywhere but in the Crown Office, and that is a temporary arrangement. In the Writ Department there should be one first class clerk in each of the two judgment departments.

49,625. In each of the two halves of the alphabet?—Yes, in each of the two halves of the alphabet, specially reserved for the Judgment and Execution Department, there should be a first class clerk in each of those two rooms; there has always been so till recently.

49,626. Otherwise you consider that the distribution of the different classes is satisfactory and corresponds to the work?—Yes.

49,627. Do you consider that there is much difference in the difficulty of the work in the different departments; for instance, in the Crown Office, is the work of a more difficult character than that in the Filing Department?—Yes, it is more difficult than in the Filing Department. I am not very much versed in the Crown Office work, but I know that some of it is very important work.

49,628. If that were so it would justify some difference in the proportion?—Yes, it would, but that is not how it has arisen, nor is the present arrangement permanent.

49,629. You have a system, I think, of moving clerks about from one department to another?—Yes.

49,630. Will you tell us how that works?—It does not work at present. One has felt that rather a difficulty, and it is very difficult to manage, because sometimes the departments are very busy, and to have a new man in to teach makes a great deal of difference in the working of the department. It is a thing which the masters always have in view; but I think it ought to be more regularly carried out throughout, so as to let the third class men—it especially applies to them—when they come in, learn the work of the different departments, and not let them be tied to only one department; because, if they are so tied when there is a chance of promotion, it makes them less useful, and they do not get the full chance of learning the whole of the work of the office.

49,631. It would also cause difficulty, as regards promotion, if you had to consider the particular work for which a man was capable, as well as his general fitness for promotion?—Yes. I think it would assist promotion very much if that system of moving men from one department to another was more thoroughly carried out.

49,632. Would you say also that it is much better for the man himself to have to turn his mind to different kinds of work, and not simply to go on with one particular kind of work year after year?—Much better.

49,633. If he goes on with one particular kind of work year after year, especially if it is work of a somewhat routine and mechanical character, it has a tendency to make a man narrow, I should suppose?—Yes, he gets restricted to a particular kind of work. Some departments, of course, are in themselves rather narrow; the filing department, for instance, it is all filing.

49,634. And a man who had been doing that work for a great number of years would become incapable of doing better work?—Unless he kept his intellect bright by something outside the office he might be a very good man and yet not have a chance. But he ought to have his chance.

49,635. It would be much better for his prospects of future usefulness if he were moved about and made to learn different kinds of work?—Certainly.

49,636. Would you apply that also to the second class clerks?—Yes, I would certainly apply it to them as well; they have to qualify for first class clerkships,

and a vacancy in the first class may occur in any department, and they ought to have the opportunity of learning the work of all departments.

49,637. And would you say that the work of all the departments is not of greater scope than one man can have sufficient knowledge of if he is moved about?—If he sets himself to work there is nothing in the work that a man could not acquire, of course; there is no work in any department of the Central Office which a man of good intelligence and industry in the way of reading and picking up knowledge could not learn to do.

49,638. Turning now to the question of appointment, do you consider that the present system works well?—No, I do not think it does work well. I do not think it works quite satisfactorily.

49,639. What defects do you find in it?—We get sometimes very good men, but at other times we get men who do not do well, who have not sufficient capability really to learn the work.

49,640. At present do you get men with legal experience or without legal experience?—Without legal experience.

49,641. Generally without legal experience?—Yes, nearly always, but I do not think legal experience is quite what we want.

49,642. At what age may men be appointed to the third class?—The age, I think, is one of the great defects of the present arrangement under which you appoint a man between the ages of 20 and 30 to a class with a salary of 100*l.*, rising to 200*l.*, so that if he is appointed at 30 and is 12 years in the class, he is 42 before he can reach his maximum of 200*l.*

49,643. Have you often men appointed near the upper age limit?—We have had them up to 26 and 28, and we have had one appointed at 29. I think that is not such a good age for learning or anything; I would have them earlier. I would have them from 18. I think that in the two years between 18 and 20 a man does not improve, but he deteriorates, in fact, when he is on the look out for work.

49,644. Do you suggest 18 as the lower limit?—From 18 to 25, I think, are the best ages, and not to have anyone over 25.

49,645. You do not think that previous experience in a solicitor's office, or other previous legal experience is necessary or desirable?—I do not. Experience in a solicitor's office is gained in a whole lot of matters of law. Experience gained in my office is entirely in procedure, and a clerk can learn it better if he comes in young, and he can learn it better inside the office, in my opinion, than he possibly could in a solicitor's office.

49,646. You would like to get young men of good general intelligence and education?—And address.

49,647. And teach them their work inside the office?—Yes, and we want the class of man that you would naturally select for attending to the public, because it must be borne in mind that all our work is attending to the public, dealing with the public across the table.

49,648. (*Mr. Coward.*) The public being solicitors' clerks?—Yes, the public being solicitors' clerks that we are always dealing with, and we want men of a type who will be able to help them and give them information with regard to any questions of practice, or anything there may be. The procedure in the English Courts is a very complicated procedure, and that complication shows itself in all kinds of details of practice in the departments undoubtedly, and we want men who can help the solicitors, and, more than that, not keep them too long; time is always of great value to the public, so that we must have no delays, and they may know that they will not be kept waiting more than can possibly be avoided, and that they will be given all the information and assistance that we can give them.

49,649. (*Chairman.*) The suggestion has been made to us that solicitors' clerks are, as a class, so astute (I do not use the word in a bad sense) and so capable, that a man would have no chance of coping with them unless he had been a solicitor's clerk himself. Do you agree with that suggestion?—I think it is possible for a man within the department to develop such capability that he should be able to take them on. As a matter

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of fact, the general attitude is that solicitors' clerks come to us for information and assistance about things.

49,650. The type you have in view is what may be described as the public school type?—Yes, that is what we want, young fellows who have done well at a public school who come in to learn.

49,651. In comparing your requirements with those of the Civil Service in general, what class in the Civil Service would you say represents the kind of man you would like to get for your office?—I do not know the Civil Service in general enough to enable me to make a comparison.

49,652. Do you think that open competition would be a satisfactory method of recruitment for your office?—I do not think that open competition would be so good as selection by a committee. I should like to see a committee appointed to receive recommendations, and to select candidates for appointment, and to nominate them.

49,653. On what do you base that opinion?—I think that if there were a small committee of two or three acting together for the purpose, with a definite knowledge of the class that is wanted, they would arrive at a better judgment on the man to be selected than if he is merely nominated by one person. I think that is bad.

49,654. I was not at the moment putting the question as between a selection committee and appointment by one person; I was putting the question as between selection either by a committee or by one person and open competition. Would you agree that competition is more effectual than selection of that kind for testing educational and intellectual qualifications?—Well, I do not know; I cannot say. I do not think that the type of man who is good at passing examinations is necessarily on that account the type that we want. We want the right class of man, and we can make them what we want if we adopt proper methods for encouraging efficiency. I am going to suggest the method that I think should be employed in that case for increasing efficiency, and for giving inducements for every man to increase his own efficiency.

49,655. What I want to get at is, what qualities you think are not sufficiently tested by a competitive examination. Is it the more personal qualities of address and the power of dealing with men?—Yes, I think it is a very important thing that men of address and men of the proper type should come into an office like ours. In the hurry and rush of business all manner of points are possible to occur which might cause a certain amount of friction, and you want a type of man who will hold the department quite clear from anything but a desire to assist.

49,656. Then what do you suggest as the best method of selection?—I suggest a committee, say, of three, or some small committee who should be appointed to select candidates whose names should be received by them, and they should see the candidates and make their selection, and then the candidates should pass an examination.

49,657. What kind of committee do you suggest?—It is difficult to say. It is the joint action more than the personality that I am thinking of in my mind. An individual person gets pressure put upon him (I am sure it applies everywhere, high and low) for philanthropic reasons to get a post for somebody, and that would not apply to a committee of three people.

49,658. (*Lord Mersey.*) What would you say to a committee composed of a judge, a nominee of the Incorporated Law Society, and one of the high officials of the Court?—I think that would make a most excellent committee.

49,659. I suggest a man like yourself, for instance?—Well, that might be, but that of course is only purely personal. I would suggest a master, a solicitor appointed by the Incorporated Law Society, and one of the judges.

49,660. (*Chairman.*) Do you suggest that a committee of that kind should appoint or should submit the names to the Lord Chancellor?—I think that when they have nominated, the clerk should be sent to the department to which he was to be appointed, as is done

at present, and he should go to the head of the department, as in our office they go to the senior master. If the senior master saw any reason for in any way calling the nomination in question, I mean for referring it back to the committee, he should write to the principal member of the committee if he had any objection.

49,661. Would it not be more convenient that the senior master should be a member of the committee rather than that he should subsequently scrutinise the committee's recommendation?—I think if the committee were so constituted as has been proposed, there would be no necessity for anything more; it would be quite satisfactory, and whoever was appointed I should have great confidence in the appointment.

49,662. At present the appointment is made in rotation by the Lord Chancellor, the Lord Chief Justice, and the Master of the Rolls?—Yes.

49,663. Do you find that as a result of that system of rotation you get an absence of continuity in the principles applied to the selection?—That is rather a delicate matter for me to express an opinion upon—it becomes almost a personal matter—but we may get one appointed of a fairly good class, we may get quite the class we want, but we may get another not of the class we want.

49,664. At present the candidates have to pass a Civil Service examination of a simple character, and to obtain a Civil Service certificate after giving the usual evidence as regards health, character, and so forth?—Yes, that is so.

49,665. Do you suggest any modification in the examination?—One of the subjects in the present qualifying Civil Service examination is what is called Digesting Returns, and we have had quite a curious experience with regard to it; it throws out about every other man; then he goes and gets a coach to get it up, and studies it, and then he is allowed to sit again. We have had men rejected on it twice, and they have been allowed to go in a third time and get through. Some of those men who are thrown out are really most excellent men, and our experience has been that they have been floored over it, while it is a subject of no possible use to them in our department; they would never be required to do anything approaching to it during the whole of their service in our department. What I would suggest is that, instead of that Digesting of Returns, we should have quite an elementary subject called Legal Procedure, which would just teach them the most elementary things about Writs, Appearances and Affidavits, what is a valid oath, what is a good service, for instance, as to which there are hundreds and hundreds of cases, deciding what is good service, but still very much simplified for the purposes of examination; I think if we were to give them that, every one of the men who came to us would be able to pass it.

49,666. You suggest that that should be included in lieu of the digesting of returns?—Yes.

49,667. Do you suggest that that should be a qualifying examination, or a probationary examination after the man has been in the office a certain time?—I suggest that it should be a preliminary examination before they come in. I have something to say with regard to examination after they have been in the office, but they could easily learn that subject before coming in, because you have only to announce the subject and give the scope of it, and the people who teach these men, who have classes for passing these people through examinations, would immediately get the whole details of it and be able to educate them quite easily, and show them the elements, so as to let them know what they were dealing with when they first came into the office.

49,668. Would that shorten the time for learning the work after they had gone into the office?—Yes. They would not have to be taught the most elementary things.

49,669. Would knowledge of that kind, learnt, not by actual contact with the work, but out of text-books, be of much value?—Yes, because they will have learnt the forms. Nearly all our forms are prescribed forms by rules under Act of Parliament. They would get accustomed to seeing them filled up, and would soon

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learn to know what they want to know with regard to them. They would learn to know what an affidavit is. They would be told, for example, what a guardian *ad litem* is, which they would have to know at once when they entered an appearance, and various other things which would just give them the general knowledge which would be useful to them in the work of the department, and make them useful directly they came on to the staff.

49,670. Do you suggest that the standard of the general educational part of the examination should also be raised?—No; I think that the present examination is quite sufficient to pass in for our purposes, if they had this subject of legal procedure which I have suggested on page 4 of my précis in my suggested scheme of examination.

49,671. The present examination consists purely of handwriting, spelling, arithmetic, and English composition?—Yes, and then I would have what I call legal procedure instead of digesting of returns.

49,672. That as an educational examination is of the most elementary character?—Quite; but if you have a boy who comes in from the ordinary public school I think if you make the examination too stiff you may shut out some very good men who would develop into excellent clerks as long as they have had a fairly good education and can pass that test. If you had that and some system of a committee constituted as suggested I should put much more faith in it.

49,673. You would not rely on this examination in any way as a sieve; you do not think it would be needed to sift out the less highly-qualified candidates from the educational and intellectual point of view?—No, I would rely upon the committee to do that.

49,674. You would rely upon the examination merely to keep out men who had not had the ordinary elementary examination?—Yes.

49,675. What do you suggest as regards an examination to be passed subsequently after entering the Service?—There, I think, something is required for two reasons. I think in the first place that we labour under a great difficulty at present when we come to promote by merit. The Committee of Control Masters, that is the three masters who compose the committee for controlling the Central Office, have to look after all matters with regard to promotion and discipline. I think it is a very difficult matter indeed for them with a scattered department like ours working at long distances from the different departments over a great big building, many of them separate in their work, and the men being so scattered that they are very rarely brought into contact with the masters. A few of them naturally are brought into contact, and the masters may form an opinion as to the varying degrees of capability of the men who are brought into immediate contact with them; but of course the difficulty which I think exists is that the masters feel because they are always just, I mean that they are working with the idea of justice in their minds to all the staff, that if they appoint one of those whom they happen to know while a great number are doing good work elsewhere whom they do not know, they cannot select very well without fear of doing injustice. I think there should be something that would enable them to get a class of men, and a growing class of men, in every department who have qualified for promotion. Accordingly I would propose a scheme by which all men who enter in the third class should have six years in that class, and then I would have certain subjects under a certain syllabus given to them in which within the six years they may attend the Civil Service Commission and pass the examination in certain sections of procedure.

49,676. They would not be qualified for promotion unless they passed that examination?—They would not be qualified for promotion unless they passed that examination, but if they passed it at any time within six years, and within the limit of time, they should rank according to the original date of appointment and not according to the time at which they passed it, there should not be any requirement of qualifying for promotion by passing any other examination. If one man passed before the end of the six years and

another passed within the six years but later, they should rank relatively according to seniority of their original appointment.

49,677. We have the syllabus you suggest before us, and perhaps it is unnecessary to go into the details of it?—Yes. Then in the second class I should propose the same thing for qualifying for the first class.

49,678. You suggest a further examination of a more advanced character to be passed by clerks in the second class before they are eligible for promotion to the first class?—Yes, and that they should pass in the same way. I have given roughly a sketch of the class of subjects that I think it would be useful for them to pass in in the different departments, so that they should really know the procedure before they come to be promoted to the first class; have a real knowledge of it I mean.

49,679. We have been told by the chief Civil Service Commissioner that he does not consider that examination is a method of test that can be conveniently applied to men after a certain age—that men cease to be examinable after a certain age. Do you think that that difficulty would arise with regard to the examination that you suggest for clerks of the second class?—I should not have thought so, because all the time they will be having more or less opportunities of learning. I should not make that examination a competitive examination at all.

49,680. No, I understand that. You suggest that if the examination relates to subjects which they are dealing with every day, that objection applies at any rate with less force?—Yes. Not only are the subjects useful for the work they are dealing with, some in one department and some in another, but they are all subjects that all clerks ought to know for their work generally.

49,681. The Commission have received a statement from a number of clerks in the Central Office making a request for certain modifications in the scales of pay. Have you seen that statement?—Yes, I have.

49,682. We should like to know your opinion as to the request made there. You will remember that the suggestion was that the scale of the third class should be from 120*l.* to 250*l.*; for the second class from 300*l.* to 450*l.*; for the first class from 500*l.* to 600*l.*; and that there should be four principal clerks on a scale of salary rising from 640*l.* to 700*l.*?—Yes, I agree that that is a reasonable proposition, and that it would be an advantage to have it.

49,683. On what do you base your opinion?—I think 100*l.* to 200*l.* is very poor pay, considering that if one looks back before 1880 a clerk would enter the service at 16 years of age and commence at 120*l.* (but that is rather an exceptional case) until at the age of 25 he would be receiving, assuming that he entered at 17, 200*l.* a year. Under the present scale, and entering at the age of 20, he would receive 150*l.* In some of the old offices from which we were taken, the scales were very much more advantageous than they are now, and that was in 1880.

49,684. (*Lord Mersey.*) And the work is not less, I suppose?—No, the work is more; we are very much fewer in number.

49,685. (*Chairman.*) When were the present scales fixed?—In 1880.

49,686. It was in 1880 that the scales of the three classes as they at present exist were laid down?—Yes; I think that a scale of 120*l.*, rising by annual increments to 250*l.*, is a very good scale.

49,687. The scales of pay in the Central Office are similar to the scales in most of the other offices of the Courts?—That is so.

49,689. Have you made any comparison of those scales of pay with the pay that is usual in solicitors' offices?—No; I do not know what the pay in solicitors' offices is; I think it varies very much.

49,690. You have no knowledge of the pay in a solicitor's office?—No, I have none.

49,691. Would it not be reasonable, in deciding whether the scales of pay are suitable, to ascertain what the rate of pay outside the Government service is for similar work?—I think it is a very different thing. What

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we want to get is a particular type of man, and he is going into a department where he has certain rights and privileges in the way of promotion and pension, and all those things which prevail in the Service. I do not know whether there is such a thing as a market price for labour of that kind outside.

49,692. Are you acquainted generally with the nature of the work of a managing clerk in a big firm of solicitors?—I see a great number of them and have dealings with them.

49,693. How would you compare their work with the work of, say, a first class clerk in your office?—I was not thinking of managing clerks. Managing clerks in some large firms are thoroughly capable men.

49,694. And their work would be at least as difficult as the work of first class clerks in your office, would it not?—I think it would.

49,695. With a wider scope, and in some ways more responsible, possibly?—I do not know about more responsible, I should not have thought that; but certainly wider in its scope and some of it very difficult work, and work requiring considerable legal knowledge.

49,696. How would the two compare as regards hours and holidays; their hours would be very much longer?—No doubt; probably a good deal too long as we should think.

49,697. Possibly; and their holidays very much less?—That I do not know. It might be so in some offices, and it might not in others.

49,698. And they have no assured system of pension?—That, again, is what I should consider very wrong.

49,699. (*Mr. Coward.*) What?—Wrong to think of as an official thing for an official department. I am not saying that it is wrong for anyone outside.

49,700. (*Chairman.*) I was not asking you whether it was right or wrong; I was asking, is it a fact that they have no assured system of pension?—I take it that it is so; I do not know.

49,701. They may receive a pension in some cases as a matter of grace, but there is no regular pension system?—Naturally, because they are not under any Government; they are not under any Pension Act of Parliament. When you have a department you are looking at the matter from a different point of view; you come under the Pension Acts, and various other Acts.

49,702. So that you would agree that the work is at least as difficult and important, and the conditions, as regards hours, holidays, and pensions, decidedly worse than in your office?—I should have thought so, but I am not speaking from actual information, and it is rather difficult for me to answer.

49,703. And, as regards pay, you have no knowledge of what the pay of a managing clerk in an important firm of solicitors would be?—No, I have not.

49,704. Would you be surprised to hear that it is seldom more than 300*l.* a year, and hardly ever more than 400*l.*?—No, I should not be surprised to hear it.

49,705. If those figures are correct, would it modify, in any way, your opinion as to the scales that are suitable for the Central Office?—I do not think so; I think you are dealing with a totally different kind of thing. If you are making a department, and you are considering whether you have an official department, of course, if you could take other branches of the Civil Service and compare them, there would be more comparison there; but in the case of solicitors, all those matters depend on the individual contract between the two individuals, and the whole arrangement exists only between the two individuals in each separate case; each has its system of employment for employing a large body of people.

49,706. Do not the conditions of employment in the outside profession, in solicitors' offices, show what may be regarded as the current market value for work of that character?—Yes, I suppose you could say that. That means that a solicitor's clerk can only be obtained on those terms; that those are the usual terms prevailing in the profession, just as in the case of wages of domestic servants.

49,707. But good men are commanded by solicitors as managing clerks on those terms?—Yes, that may be so.

49,708. Have you any reason to think that there is any lack of candidates for the Central Office, or the other offices of the courts under the present system?—No, I should certainly think not; there are sure to be candidates. I do not know whether these figures in the clerks' petition might be of use, but in the Post Office the second class clerks rise to 500*l.*

49,709. Are you speaking now of clerks who enter by the higher division examination?—I am speaking of clerks in the Secretary's department; it probably would be so.

49,710. That is to say, clerks who enter what the Commission has proposed to call in future the administrative class, from which the highest offices in the Civil Service will be filled?—Yes. Then in the Ecclesiastical Commission they are all entered on a higher scale, but they go on on a higher grade and a higher examination.

49,711. The classes of which you are speaking now consist of men who enter by the highest examination for the Civil Service?—Yes; but the principal clerks in the Ecclesiastical Commission get 700*l.*

49,712. That is to say, men who may be said to be generally of a university honours standard?—That is so.

49,713. Do you suggest that candidates entering with an examination which represents probably the standard attained by an elementary school-boy at the age of 13 are qualified for a similar scale of pay to that of men who enter with a university honours standard?—No, I do not say that. I am merely instancing the classes that are better paid. But there is another class; in the Principal Probate Registry the principal clerks get 800*l.* a year, and we have no such salary.

49,714. You would agree that the offices which you cited just now are not fairly comparable with the Central Office?—Then there is the Inland Revenue Estate Duty Office, which certainly would be; the salary there is 700*l.*

49,715. How is that office recruited?—That I do not know; it is probably by the higher division examination, I am told.

49,716. You mentioned the Probate Registry; the scale there for the different classes is, I think, apart from the principal clerks, the same as the scale for the Central Office, though they have a higher scale up to 800*l.* for principal clerks. You suggest that there is an additional grade there—namely, principal clerks—who have a higher scale?—That is so. But there is one point I think I might mention with regard to the scale of our third class clerks, from 100*l.* to 200*l.*, namely, that the second division, formerly the lower division, which is equal to our third class clerks, has a maximum scale of 350*l.* It is the 200*l.* which, I think, it is so hard to keep a man to.

49,717. But the maximum salary of 350*l.* for second class clerks applies, does it not, to the whole of the service of those clerks; in the regular line of promotion there is no opportunity of rising to a higher salary than that?—No.

49,718. Therefore, it is hardly fair to compare it with the salary of third class clerks who have definite opportunities of rising to a higher salary. Would it not be fairer to compare it with the salary of the three classes, including the first class? Turning now to the question of organisation, do you consider that there could be any further devolution of work than at present takes place?—If you mean devolution of work from the masters, I think there are one or two cases of devolution of work that I should very much like to suggest with deference. I think there is considerable waste of power in not utilising our masters, who have the same qualification, practically, as a county court judge, in trying out actions in the High Court. They should have power to try actions in court, such as actions under Order XIV., which are remitted constantly, with great delay and loss, to the County Court.

49,719. That is rather a point of judicial procedure which is outside the scope of our reference,

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and, therefore, we need not go into it in more detail; we note your opinion. But, taking the work which is at present done by the masters, where further devolution would be a matter of internal arrangement rather than of judicial procedure, do you consider that any further devolution could take place there?—To my mind, of course, the whole thing rather hangs together. If the masters' work were to be somewhat extended in the way I have suggested, then I think it would be possible to relieve the masters of various matters, such as garnishee orders nisi, *ex parte* applications, charging orders nisi, orders for substituted service, orders for leave to enter conditional appearance and for leave to amend writs of summons, and originating summonses before service, applications for leave to issue execution after the lapse of six years—practical questions of that kind. I think those might, if it was thought necessary, be devolved upon qualified principal clerks.

49,720. Would that amount to a considerable volume of work?—It would relieve the masters of a good deal of work.

49,721. And that you consider is work of a character that might be done by officers of lower grade than masters?—Yes, I think it might be. If any question of doubt arose on a particular case they would be able to refer to the master.

49,722. Would an alteration of the rules be required for those changes, or would it be merely a matter of internal arrangement?—There would have to be, I should think, a general rule giving the masters power to delegate that work to the clerks, namely, the particular types of work.

49,723. (*Lord Mersey*.) Who does that work at present?—The master.

49,724. Does he do it under some statutory authority?—He does it because the master is the "Court or a Judge" in the Rules of Court. Where the term "Court or a Judge" is used, the master has jurisdiction to do any of the work to be done by the Court or a judge, with the exception of the few things mentioned in Order LIV., Rule 12.

49,725. (*Chairman*.) So that what would be required would be authority by rule for first class clerks to do in certain cases work which is required by rule to be done by "Court or a Judge"?—Yes, in certain cases that would be so. There would be, I mean, no difficulty in adjusting it by rule, so far as that was concerned; but, of course, if you took that work alone from the masters, unless the masters had further jurisdiction given to them to try certain actions in Court, instead of remitting them to the County Court, then I do not know whether the necessity for that devolution would arise.

49,726. Unless it resulted in a reduction of the number of masters?—There would not be enough to do that; there would not be nearly the work of one master.

49,727. The discipline of the Central Office and the details of administration are under the review of a committee of masters?—The Committee of Control, the control masters, as we call them. There are three masters nominated by the Lord Chancellor who form the Committee of Control for all matters of discipline and promotion.

49,728. How are matters brought before that committee; are they brought before it by the heads of different departments?—By the chief clerks in the different departments.

49,729. The suggestion has been made to the Commission that it would be advantageous in an office like the Central Office to have one officer who, where he exists, is generally called chief clerk, who should be responsible for the duties of discipline, distribution of work, and so on throughout the office. Do you consider that it would be advantageous to have an officer of that kind in the Central Office?—I think it would. I think it would be an assistance to the Committee of Control in the matter of promotion if there were some responsible person who could share the responsibility with regard to the selection of men for promotion by merit and matters of that sort, who was more in touch with the men than the masters can possibly be.

49,730. (*Mr. Coward*.) They are not at all in touch with the men, are they?—No, not in a general way.

49,731. (*Chairman*.) At present their information about the men comes through eight or nine different channels, the heads of each department?—Yes, I think that if one of the head clerks, who would naturally represent the whole staff of clerks in the department, could be taken into council, it would assist the masters.

49,732. How are the details of discipline and leave arranged now. Does each department of the Central Office arrange its own leave?—That is all according to the regulations. Each of the heads of the different departments has power to arrange the leave for the different clerks, and they arrange so as to have them go away when it is convenient for the work, of course, to a large extent.

49,733. And as regards the details of discipline, irregular attendance, and so forth, is that in the hands of the head of each department?—That is in the hands of the head of each department, undoubtedly.

49,734. If a point is one that he cannot deal with himself, does he refer it to the Committee of Control?—He would report it to the senior master, and the senior master would bring it to the Committee of Control if there was any necessity; but we have an attendance-book.

49,735. Is the head of each department responsible for examining the attendance-book and taking any action that is required?—He initials it every day.

49,736. Would it not be a convenience if for all matters of that kind there was one officer responsible to the Committee of Control, and charged with the supervision of discipline, leave, distribution of work, and so forth?—There would be some advantages in it, no doubt, but I think that the existing system works very well for discipline.

49,737. Under the present system, do you get uniformity as regards the administration of discipline in the different departments of the Central Office?—I think so now; it is all administered very well by the heads of the different departments, I think.

49,738. Is it not your experience that the administration of discipline depends a good deal upon the personality of the individual who has to administer it?—Yes, I think it does to some extent.

49,739. And if you have in one office discipline administered by nine different heads of departments, you are likely to get differences between those departments?—I suppose that must occur.

49,740. The question has also been raised with regard to other departments of the Supreme Court offices, whether the present system of admission to the third class and promotion to the two higher classes is the right system, or whether it would not be preferable to have a lower grade entirely separate from the upper grade. The men in that grade would correspond, roughly, to the present third class clerks. They would do the more mechanical work and would not expect to rise to anything above the mechanical work. The second and first classes would be recruited from outside, with men capable of doing more responsible work. Do you prefer the present system, or do you think that a system of that kind would be an improvement upon it?—That would mean, as I understand it, that the third class clerks would be quite a separate class from the rest of the office; they would not rise naturally.

49,741. Yes?—They would stay in the third class, as a rule?

49,742. Yes. The suggestion was that you might allow promotion of men of exceptional capacity, but the regular system should be that they should remain in the third class and not rise above it?—Then up to what age would they come into that new third class?

49,743. The suggestion was that they should be recruited for the third class at an early age—18, or something of that sort?—The same as at present?

49,744. Well, younger than at present. At present the lower limit of age is 20?—Yes, 18 is the same as I have suggested.

49,745. But that you should recruit for that class men not of a high standard of education, but capable of doing all the work of filing, keeping books and lists and documents, and so forth; who would not expect

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to rise to better work, or to higher pay than the maximum of the scale which is 200*l*. The men appointed direct to the second class would be men who had had some experience in a solicitor's office, and you would endeavour to get men capable of doing the better kind of work that is done by first and second class clerks?—I do not think that would work so well. I think there is a great strength and a great advantage in the oneness of a department, every man who is in it belonging to the department as a whole, and all of them colleagues, placed on a footing of equality. What you have put to me would really mean that the third class clerk would be a lower grade of clerk.

49,746. Quite so?—Then I do not think it would work so well, because from the very first our idea is to train the third class clerks when they come in to begin to learn all kinds of work; as soon as they have been there a little while and have learned the less important work, to get them on to doing all the work generally. It is a very great advantage in many ways, because if you get illness and suddenly someone is away ill, they have been trained to do the more important part of the business, and if they are careful and show signs of ability, it is a great advantage to let them learn as soon as they come how the business in all the departments is dealt with as a whole.

49,747. You find that you are able to give third class clerks work which is not of a purely mechanical nature, but to give them some work of a better kind?—At once.

49,748. To train them for higher work?—I do not see why you should limit a particular portion of the men. They would be only a lower division of clerks, and they might be equally good with the men who are not in the lower division, but the fact of the matter is that they would be a different grade, and it might be said that you cannot give that class of work to that grade of clerks, whereas now we can get all the usefulness out of our men just as soon as we get them; we are educating them so that they can do the different classes of work, the important parts as well as the other, by degrees, and get accustomed to it. They are homogeneous, a whole department, and I think there is great strength in that and much greater advantage than if they were a mixed department made up half of a lower grade, because that is what it would be.

49,749. One argument that has been put forward in favour of a system of that kind was that the work of a third class clerk was of so mechanical a nature, that if a man had been solely engaged upon it for 10 or 15 years he was not much good for any work of a better character. I gather from what you say that you do not consider that that argument would apply to the Central Office?—Not as our third class is constituted now. Every one is keen to make himself fit so far as he can for promotion.

49,750. Your system of moving them about from one department to another would, to some extent, be an answer to that argument?—Yes. We have mechanical work to do in our office, of course, as all offices have, but we also have very important work to do.

49,751. On the whole, you distinctly prefer the system of admission to the third class with promotion from the third class to the higher classes?—Certainly.

49,752. The hours of attendance are from 10 till 4, generally speaking?—Yes.

49,753. In vacation what are they?—In vacation the work decreases in all the departments, except the Bills of Sale Department. The hours of attendance are fixed by Order LXIII. Rule 9 of the Orders of the Supreme Court. In all the offices except the Summons and Order Department, the Crown Office, and the Associates' Department, the hours are from 10 till 4, except on Saturdays, when they close at 1 p.m., and during vacations when they close at 2 p.m., except on Saturdays, when they close at 1 p.m. In the Summons and Order Department the hours are from 10.30 to 4.30.

49,754. And in vacation from 10 till 2?—Yes.

49,755. Does that apply to the short vacations as well as the Long Vacation?—With limited numbers.

From the 24th December to the 6th January we have short hours, and in the Easter Vacation we do not have any short hours, we close on Easter Monday and Tuesday.

49,756. With no short hours?—No, not shorter hours; that only applies to the Long Vacation.

49,757. And what about the Whitsuntide Vacation?—One short day.

49,758. The hours of office work for clerks are the same as the hours during which the office is open to the public?—Not necessarily; if there is work to do they have to stop and do it, of course, after the office closes.

49,759. Taking the Writ Department, that is open to the public from 10 till 4?—Yes.

49,760. Is there any work to be done after it is closed to the public, after 4 o'clock?—Yes, sometimes.

49,761. What kind of work?—Entering. Perhaps you have not quite realised what we are engaged upon. We are always working in the King's Bench Division with the whole staff attending to the public, who are all common law practitioners, and who require their work to be done for them with the least possible delay, for very good reasons, because they get their costs taxed and cut, and various things done like that. The one thing they have the right to demand and that they do demand, is that when their work is brought up we should be there to do it on the spot at once. It is everything while you wait; this is different from the Chancery Division; it is not making an appointment and getting it done, it must be done during the time they are waiting. The clerks are working and taking in things and entering, and some have to be entered while they wait, and sealed and returned finished and completed. The whole staff is fixed upon the idea that there should not be delay, and in the case even of a long judgment, a man will go through the judgment, and take some considerable time and thus put pressure upon other men; but it is not deferred till the next day; "We will leave it, and look it through and consider it," that is not the sort of connection between the department and the public in the King's Bench Division.

49,762. The result is that there is very little work to be done after the office is closed to the public?—There is not very much.

49,763. Does that apply to all the departments of the Central Office?—No, it does not apply to all; there is work to be done; every day's work is completed, entry and all, in its day, and if there are entries to be made, or anything required to be done after 4 o'clock, the men stay to do it.

49,764. Does that often happen?—It does sometimes happen. Sometimes they are left with some work to do after the office is closed to the public.

49,765. What sort of work would that be?—They might have postponed something from the day before. They would say, "This must be looked into," and it cannot be done under pressure then because there are a great number of the public waiting; then they would stop and do it.

49,766. In the case of a complicated judgment, for instance?—Yes.

49,767. And in the Crown Office. I presume the work there does not depend upon the public?—That I do not know about. I cannot answer for the Crown Office; I know very little about the work in it.

49,768. In the Filing Department it depends chiefly on the public?—Everything is done there straight as it comes in.

49,769. (*Lord Mersey.*) Is there very much work in the Crown Office?—I do not like to express any opinion about it, because it is a department quite apart, almost by itself.

49,770. (*Chairman.*) My point was this: It has been suggested that the hours of work are short, and at the same time that solicitors do not want them made longer because solicitors do not want to have to come to the courts after 4 o'clock; and a suggestion has been made that the hours might be made longer for the work of the office without lengthening the hours for opening to the public. The question there evidently is whether there

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is work of a kind that does not depend upon the presence of the public, which could be done after the office has been closed to the public. I gather from what you say that there is very little work of that kind?—There is none; every bit of work is done each day in its day. For instance, we have a slack time every morning until past 11. We wind up the previous day with a certain number of documents, and then the next morning we are doing very little, and the whole of those documents are entered up in the cause book. We keep a cause book with a record of everything that is done in every action, and those are entered in the morning, numbered, put in bundles, and put away before the work of the day itself has come in; but from the time that the work of the day itself has come in up to 4 o'clock, and especially during the last hour from 3 to 4, it is just as much as the staff can do well to get through without keeping the solicitors' clerks waiting. And as to the question of hours, it is one that affects the solicitors' clerks particularly; they cannot close if we are open; if we are an hour later, or keep open late, they have to keep open an hour later also.

49,771. (*Mr. Graham Wallas.*) You told us, I think, that you want in the office for your third class young men of good education?—Yes, we do.

49,772. And you said that you had no change to propose in the existing examination into their general education?—That is so.

49,773. That examination, I think, consists of writing and arithmetic up to fractions?—Yes.

49,774. And you told the Chairman that that corresponded to the attainments of an elementary school boy at the age of 13?—That has been the best examination so far as it goes at present, but I am not relying at all upon that examination; I am relying on getting a boy who has done well at a public school.

49,775. Would you not agree that that corresponds rather to the stage of a boy of nine than a boy of 13? Then you want to follow that by an optional examination of a technical kind, which can be passed in some cases five, or six, or seven years after he comes into the office, by the third class clerk?—That is so; for practical reasons I would like him to pass an elementary knowledge of practice and something just about what documents are, before he comes into the office—for practical purposes of usefulness.

49,776. Without going into the technicalities, that later examination would be an examination in procedure?—Yes, quite elementary.

49,777. And it would be on points of procedure that prevail in the office?—Yes, because every man ought to know a little more than he has to do; he wants knowledge round about his subject.

49,778. The subjects in the main that a man would want to know are those that he would pick up by taking an interest in his work in the office?—Yes, and by reading.

49,779. You did not tell us whether, with regard to the clerks in your office, you think there should be an age limit for retirement; have you any view on that point?—There is no age limit, of course, at present; a man goes on as long as he is thoroughly capable of doing his work.

49,780. Do you think it would be more satisfactory to follow the ordinary practice of the Civil Service, and have an age limit?—I do not know. I must say that in the legal departments I do not know of anything more valuable than the experience that a man gets. If a man keeps his health, and keeps his capability, I think he becomes more useful instead of less useful when he grows older.

49,781. But are there not other considerations on the other side? On the balance of considerations, do you think it desirable that there should be or should not be an age limit?—Personally, I should say that a hard and fast age limit would be a mistake; you might lose someone whom it would be extremely useful to keep.

49,782. But ought there to be a loose rule?—The rule (if any) should be that a man is always liable to be asked to resign after a certain age.

49,783. After what age?—After 65.

49,784. Now I want to ask you some questions as to the list of clerks in the office, and perhaps the secretary will hand you the printed list. If you look at the list of second class clerks you will find the name of Mr. F. R. Stringer second from the bottom?—Yes.

49,785. Is he your son?—Yes.

49,786. He came in apparently in the year 1904 and is now 30 years of age, so that he must have come in at about the age of 20?—Almost directly after he was 20.

49,787. Would you mind telling me what his experience was before he came into the office?—He was at King's College School, and he had no other experience of official work until he came to the office. #

49,788. But he was appointed at 20 years of age?—Yes.

49,789. You would not say that he was at school till he was 20?—I kept him there till he was 18 and then started him on a course at King's College, London. I kept him at school as long as I could, and as soon as he left school I got the Lord Chief Justice to promise him his nomination so that he would get it when he was 20, and he did get it when he was 20, and in the meantime I got him preparing, so far as I could, for passing whatever examination he required.

49,790. He had no other occupation except passing this examination between leaving school at the age of 18 and 20?—No.

49,791. Will you tell me what form he was in at King's College School when he left at 18, and what place he was in in the ordinary school list?—When he had been for some time in the fifth form on the classical side and had done well, I had him removed over to the commercial side, as I thought it would be well for him to be grounded also in that class of work. I then sent him to King's College, London.

49,792. You told us that there was no lack of candidates for these posts. When Mr. F. R. Stringer was appointed were there other candidates for that post?—I do not know; the judges keep their own lists. All I know is that I went to Lord Alverstone and asked him if he would give me the appointment for my boy, and he said he certainly would.

49,793. Does he work in the same department of your office as yourself?—He is in my department now.

49,794. Would you mind looking a little higher in that list, and you will see the name of Mr. G. W. Townesend?—Yes.

49,795. Is he a son of Mr. J. F. Townesend?—Yes.

49,796. Was there a son of Mr. F. H. Short in the office until a short time ago?—Yes, he is now in the Poor Persons Department; he was transferred from the Central Office, and he is in the Criminal Appeal Office.

49,797. The three first names of first class clerks are Mr. F. H. Short, Mr. F. A. Stringer, and Mr. J. F. Townesend?—Yes.

49,798. And they all three have, or have had, sons in the office?—Yes, when a man has served long and done well in the office it is always considered a recommendation to appoint one of his sons; that is one of the ideas—they think there is something in heredity.

49,799. I see by this document that Mr. A. J. Johnston has entered the office?—He is the son of a clerk, too.

49,800. He is the son of another first class clerk?—Yes.

49,801. Looking down through that list, taking the list only of second class clerks, can you see any other names which are those of sons of first class clerks, or clerks who have left the office, or died?—Not that I know. I may say that I can trace my own name back to 150 years, so far as relationship goes, to ancestors holding positions in the Court. Right back to one of the ancient "Six Clerks of the King's Chancery," generations of us have been in the Law Courts.

49,802. You have told us that about half of those who submit themselves to the Civil Service Commissioners for examination are rejected at present on the subject called digesting returns?—Did I say as many as half? I said that many are rejected, undoubtedly.

49,803. And when they are rejected they are sent to a crammer to be re-prepared?—I do not know about being sent; they always do go themselves.

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49,804. Looking back, do you remember cases who have sat more than twice and been rejected?—I cannot identify a case, but I feel sure there was one case who failed a second time, and they let him sit a third time.

49,805. In those cases where a man sits twice or three times, is the vacancy held up meanwhile?—Oh, yes, he is considered still to have it; he comes to the office.

49,806–8. Is pay given to him?—The Treasury allow him to be paid as a temporary clerk up to the time he gets his certificate, from which date his appointment really counts. He does get his pay, but he is paid simply as a temporary clerk up to the time that he passes, but he is given his chance to pass.

49,809. Is it invariably the case that all persons who are nominated by the high authorities concerned come in at once into the office whether they pass the examination or not?—Not absolutely so; they might not come, but the authorities cannot make the appointment until a vacancy occurs and we want the man.

49,810. I only want to know the facts. The fact is that in all cases, when one of the high authorities concerned gives a nomination to a candidate, that candidate comes into the office for temporary work and has up to three shots at his examination?—There may have been an exceptional reason for the three shots, but I may say anyhow up to the second shot, undoubtedly.

49,811. Therefore, in all cases where a boy was ultimately rejected you would know it. Can you tell us how many have been so rejected?—There have been two in my recollection.

49,812. Do you remember what they were rejected for?—I cannot remember that; I did not take much notice at the time.

49,813. You told us that your third class clerks are keen to get promotion; do you mean promotion according to order of ability or seniority?—If I used the word get, it was not the word I intended to use. I say they are very keen on promotion; that is to say, that they wish to prepare themselves for their promotion, and to do everything in their power.

49,814. But, in fact, judging from this list, they always are promoted, with only a few slight exceptions, by seniority?—They are mostly by seniority from third class to the second.

49,815. The difference in degree of keenness does not, as a rule, alter the actual date of the man's promotion?—No, unless a man is clearly not competent, in which case the masters might pass him over.

49,816. In your division of the office, which I think is the Writ and Appearance Office, you have two first class, 10 second class, and six third class clerks, have you not?—Yes.

49,817. Is not that a rather unusually large proportion of second class clerks?—In the Writ Department we have at present two first class clerks; we ought to have another first class clerk when the arrangement I spoke of with regard to the three Crown Office first class clerks has been settled. We have nine second class clerks.

49,818. Is not that an unusually large proportion of second class clerks?—I did not know that there was any recognised proportion between second and third class in any department.

49,819. I did not say recognised; I said unusually large as compared with other departments?—Yes, it might be.

49,820. Why is that?—Because the work requires so many second class clerks in the Writ Department in the judgment room, and that has always been considered a staff on which the office is worked; they do not want so many in the other departments.

49,821. Is it not the case that a man remains within the watertight compartment of his department whether he is promoted or not?—I do not know. If a man is promoted to the first class he has got to go and do the duties wherever they are.

49,822. And from the third to the second class?—He might do so, but it is not always so; he is moved if there is reason.

49,823. But the reason must be one of discipline?—Not one of discipline; one of requirement only.

49,824. But he remains normally in the same department?—Not necessarily. If he succeeded from the third class to the second, he would not necessarily leave the department; it would only be if there were reasons for such an arrangement.

49,825. Then is it not really the case that, while the number of second and third class clerks is fixed in accordance with the needs of the particular sub-department, the proportion of them between the second and third class depends upon the accident of which clerk reaches promotion first?—No, pardon me, it is not so; if we had a man now who was promoted from the third class to the second, there would be some place where there was a vacancy in the second class, and the new second class man would go and fill that vacancy.

49,826. Then there must have been some exceptional reason several times why there should be 10 second class clerks in your office?—Yes; they are all accounted for.

49,827. You told us that in your office there is a time-book that has to be signed?—Yes.

49,828. Is there any custom as to signing a statement that you are there at 10 o'clock, when, in fact, you are somewhat later?—I do not know whether that is a charge against the honesty of the staff, because I should call that an iniquitous thing, a monstrous thing.

49,829. But we have been told by several witnesses that in other departments there is a custom, and one witness said it was universal in the Civil Service, by which, if a man arrives at 10.20, he signs the book 10. Is there anything of that kind in your office?—No.

49,830. Are you sure?—I am not only sure, but the attendance-book is handed to me every morning, and I initial it each day, and such a thing as that could not occur without my knowing it. If it did I should report it instantly, and visit it with most severe penalties. I never heard of such a thing.

49,831. Then, as far as your office is concerned, there is no recognised custom that a man should sign the time-book as being one minute earlier than he is?—Although I know there is no such thought in your mind, I can only consider that it would be almost like insulting a man to ask him if he has put a lie down in the book against his name.

49,832. (*Sir John Kempe.*) Do you not draw a line at a certain time, say, a quarter past 10, and as long as the man arrives before that time, he does not put down the exact time of his arrival?—Whatever time he arrives, every man puts the time down opposite his name, and those who come after time have to put the reason. And they sign just as they come, not by seniority or anything of that kind, but in order of arrival, and they begin to sign about 9.40 or 9.45, because the men come early in order to get their entries over.

49,833. (*Chairman.*) Are you speaking now of the Writ and Judgment Department, or of all the departments of the Central Office?—So far as I know, that has been the practice in all the departments. I did hear of a book being kept in one department in an irregular way, and I came to the conclusion that it was very likely. I was extremely angry about it, and immediately called the attention of the senior master to the matter, because I did not consider that a thing like that ought to pass on any account.

49,834. (*Mr. Graham Wallas.*) I have only one more question to ask you. You say in your statement that boys designed for the Service do not improve by having to wait till they are 20. You could not speak of a boy as designed for a Treasury clerkship could you, because you would not know whether, when the time came, he would get a Treasury clerkship?—You get an answer to that very largely from what you have been asking me about the relationship of clerks to one another. You will find in almost all the departments that the families of a great many of the men have been in the legal offices for very many years, for several generations. If a man has done good work and has a good record it is always considered that it would be rather a help to him to get a post in his office for his son.

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[Continued.]

49,835. And these boys designed for the Service then are very often boys who have at an age earlier than 20 received the promise of a nomination?—Not necessarily a promise; they simply go on the chance; they say we are going to try for it and a trial is made.

49,836. But in your case you had a definite promise from the Lord Chief Justice of the next nomination?—Yes.

49,837. And a vacancy did occur exactly in the very month when your son reached 20?—Yes, it did, very soon after. I think he was appointed in August, and he became 20 in the middle of July.

49,838. Was it a pure accident that the vacancy happened to arise at that moment?—Yes, quite an accident.

49,839. (*Mr. Coward.*) There are a great many employees in these offices in the courts, nearly 500—473?—In the whole of the courts, you mean?

49,840. Yes?—Very likely, I should think.

49,841. You would regard it as essential that there should be regularity and order and method in their appointment, and in performing the duties they have to perform, would you not?—Certainly.

49,842. I should like to know who is the individual who would determine whether, for instance, in any one class there are too many or too few clerks; is there anybody?—You mean to say whether there is a chance of their becoming overmanned or undermanned?

49,843. No, just let me give you the sort of illustration. In times gone by you and I remember perfectly well when you used to have writs upon a policy of insurance, perhaps you had a hundred or more in a day on one policy?—We often do, now.

49,844. You do not do it now?—Yes, we do.

49,845. I beg your pardon, I think you are not right there?—As a matter of fact, when there was that great catastrophe in the Atlantic—

49,846. That was another thing; that was an action against shipowners, not on a policy?—But just the same thing occurs, whenever there is a great catastrophe.

49,847. I was meaning this. You no longer issue writs for actions upon policies of insurance against each underwriter?—No.

49,848. Therefore you can understand that you might not have so much necessity for a number of clerks as you would if that kind of thing were going on constantly?—Yes, if it did; but on the other hand there are very often things that increase the numbers; there are a great many other things that increase the writs.

49,849. There is no doubt that the business of the Courts has decreased?—Not very much.

49,850. Certainly the number of writs has decreased?—Not very much; we have had a slight decrease, but it has not been very much. We look upon our average that we issue about 40,000 writs a year, and commencing actions and originating summonses as well. I think our return is now about 44,000 for last year, and I think 46,000 has been about the highest level for a great number of years.

49,851. I am only upon this point. Is there anybody who would determine whether the office is overstaffed or whether it is understaffed?—I suppose if the Committee of Control Masters saw any sign of the office being overstaffed they might be able to tell. We should know if we were undermanned of course. I suppose each department would best know for itself. The head of the department would know whether he was overstaffed.

49,852. Would you not agree with me, that in order to ensure efficiency, the business of the Law Courts should be conducted on the same kind of principle that ordinary business establishments should be conducted?—If there is any analogy between the two that would no doubt apply, but I do not see that the analogy comes in. The business of an ordinary establishment is selling goods, or it may be in a solicitor's office doing all kind of miscellaneous work on a very limited scale, compared with the work of a department like ours.

49,853. There is no reason, is there, why the clerks should not be appointed and graded on the same sort

of principles in their employment as would obtain in a solicitor's office?—Do you mean that they should be paid the same salary?

49,854. No, I did not mean that. I meant that you appoint all these people right up the tree by seniority?—Or by merit.

49,855. No, not by merit. You get a man in your third class, and you have no opportunity of determining before he is there whether he will be a good clerk or not?—Nobody can ever tell what a man will develop into in 20 years or 12 years.

49,856. But I may tell you that I have got another sort of theory about it. When you get a man and appoint him in the third class, do you not often find that it is rather a mistake that you have made, and that it would have been a better thing had you not done it?—We do not put him into the third class; the patron of the appointment puts him into the third class.

49,857. But when he is once there, there he is settled, and unless he does something wrong he never goes out?—He goes out by promotion.

49,858. Well, he never goes out of the office; he goes up, but it is always on an ascending scale. You never do what is done in other offices, dismiss him unless he does something heinously wrong?—If he does anything which is officially disgraceful, or if he is so incompetent that it is impossible to go on with him, he might be dismissed.

49,859. The thing is, is he dismissed?—He is.

49,860. How many have you known in the course of your long experience to have been turned out in that kind of way?—I have never known a man who you could say was absolutely incompetent to do anything. If I had I think he would have been turned out. We have had one or two cases of men dismissed for misconduct, but you are not speaking of that; you are talking of incapacity.

49,861. That is so?—I have never known a case.

49,862. So that the result is that every man you get in your third class remains there for his life, if he choose to stay?—Yes, if he choose to stay; he remains there as long as he does his work—you must put that qualification in.

49,863. But then he always does?—As long as he does his work well, he is entitled to stay. That is one of his rights as a member of the public service.

49,864. Merit has absolutely nothing to do with his promotion?—Pardon me, that is not so. We have very recently had a case where a clerk has been passed over.

49,865. But I understood you to say that that happens very rarely?—Because really, as a matter of fact as regards promotion to the second class, the men as a rule who come to us have been, with certain exceptions, of a class who have done well. The men are keen and try their best. We have not got such a very gigantic staff after all, and we have not got any of those men who come in and are turned away because they are no good.

49,866. You have not? The man keeps up to the standard?—To what standard?

49,867. To the standard necessary to be retained there?—Yes, if you put him on simple work.

49,868. And the man keeps there well or ill; and, provided he does not do so badly as to be kicked out, he gets an increase every year, irrespective of merit?—Yes, that is part of the arrangement when he came in, that he should rise 10*l.* a year till he reaches 200*l.*; that is part of the arrangement.

49,869. Yes, I know, but is it a good one? I am only asking you whether you think it is an advantageous arrangement?—That involves, of course, considering the whole scale. You would have to say, "You are to be engaged at 100*l.* a year, and if you deserve it you will get 10*l.* increase each year, and if you do not qualify and do well as you get older you will have to stick to this 100*l.*" That would be rather a curious way of conducting the department.

49,870. Would it? It would in a Government department—that is exactly the point. A Government department is conducted on lines that are wholly different from those on which an ordinary business is

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conducted, and I am questioning with you whether it is expedient. However, I am much obliged to you.

(*Chairman.*) I should like to ask you one question with regard to that. Is any certificate of efficiency required before each increment is allowed?—The master has to write to the Lord Chancellor and say that So-and-so is appointed.

49,871. But before each increment is allowed?—No, not before each increment.

49,872. Are you aware that in many offices in the Civil Service that is required?—I did not know that; I never knew that that existed at all; it never has been so in our office.

49,873. Do you think it is a good plan?—I do not see any harm in it; I do not see what harm it could do. I think it would be a good plan.

49,874. (*Miss Haldane.*) I gather that you want to get into your office a secondary school boy of fair education?—Yes.

49,875. In Scotland you have an examination at the end of the school career, and a certificate is given on passing that examination which is called a leaving certificate, which admits to the university and to certain occupations and professions. If a boy passed that examination and got that certificate would it not be rather a good test for those coming in as third class clerks?—Yes, it would.

49,876. Supposing an examination of that kind was established throughout the United Kingdom, which has been discussed, that would form a good entry?—I should think it would be a very great recommendation to the patron who was going to appoint, because the candidate would pass it so as to qualify him for his recommendation.

49,877. Showing that he had got a good secondary education?—Yes, if the examination was of that kind it might be possible to dispense with a further examination on appointment.

49,878. The idea is that it should not be a cramming examination, as I gather the other one is?—If such a scheme were to be adopted it might be possible to consider whether the holding of that qualification might not exempt the man from the ordinary Civil Service entrance examination.

49,879. (*Sir John Kempe.*) We have had a great deal of evidence to the effect that professional qualifications are necessary. You do not think they are necessary for your office, but can you speak about the other offices—the Chancery Office for instance?—I know the work that they do in the Chancery Office, but I think a master would be better able to tell you than I can. You mean whether the qualification of a solicitor's clerk would be a good one for a clerkship in the Chancery Division?

49,880. Is it necessary in the Chancery Division?—So far as my knowledge goes, I should think it was very much more probable that the qualification of having been a good and successful solicitor's clerk

would be a better qualification in the Chancery Division than in the King's Bench Division.

49,881. You say that you rather agree with the proposal of selection by a committee?—Yes.

49,882. On what ground do you think that a committee would be able to select men with qualifications for your office, better than could be done by open competition. You have had no experience of open competition?—No, I know some of the men who have gone in. I have never had any experience of it, but what I really think and what is in my mind is that really and truly to get the man we want he has got to be the right type of man. After his appointment he has to acquire all he has got to learn to make him valuable so as to be of use to us. We are on one side of the dividing line, and we have, as it were, to administer all the practice and procedure and so on within the limits of the different departments where the machinery is required by the public, and the thing is that it is learning inside, and the whole of the practice involves a knowledge of outside procedure, but it does not extend to the same area as a solicitor's knowledge of law at all. Our men know no law, but when a solicitor is doing work he has to know the law, that is the substantial law regulating rights and property and everything. But there is a law of procedure which is extremely complicated law, and a man in our department ought to become more or less experienced in procedure.

49,883. I am afraid you have misunderstood my question. What I want to know is, what reason have you for supposing that a committee to select third class clerks would get better men for your purposes than open competition would. As a matter of fact it is a question of experience, and you have not had actual experience which would show you that we get by open competition men adaptable for anything. This system of open competition is perfectly successful; what reason have you for thinking that selection by a committee in your case would be better than open competition?—I cannot say more. I cannot say that it would be better. Personally I should prefer it; I should trust more to a committee choosing the right type of young fellows to come in than I should like to trust to open competition, but I cannot say that I do so with great knowledge of open competition.

49,884. If it can be shown that at any rate open competition does produce good men, one would rather argue that it might succeed with you too?—It might, but the personality of the man is sunk in the open competition. There may be men of quite different personalities, and it is the personality of the man that we want to some extent for selection.

49,885. You think, on the whole, that selection by a committee would produce a better class of man than you get now?—Yes.

49,886. But you cannot say that open competition would not do so?—No.

Mr. WILLIAM HOWARD WINTERBOTHAM (Official Solicitor), called and examined, accompanied by Mr. EDWARD SANT (a member of his staff).

49,887. (*Chairman.*) Have you held the post of Official Solicitor of the Supreme Court since 1895?—Yes.

49,888. You were appointed by the then Lord Chancellor?—Yes, Lord Herschell.

49,889. What had been your previous experience before appointment?—I had been for 25 years partner in the firm of Messrs. Waterhouse & Co., and I had been senior partner since Mr. Waterhouse's death.

49,890. Does the work of the post which you occupy require your whole time?—I am entitled to practise privately, and for a good many years I did do a good deal of work outside. I was only bound to do all the work that had to be done; but for some years the work has so much increased that, for all practical purposes, I do not practise privately. I am entitled to do so, and I see clients occasionally, but practically my whole time is taken up with my official work in the courts.

49,891. That has enabled you to keep in some touch with the outside profession?—Yes, I have always kept in touch with the outside profession. I have been a practising solicitor, and have been elected on the Council and have been President of the Law Society, which, of course, I could not be if I were not a practising solicitor.

49,892. It is necessary, I presume, for your post that the occupant of it should be in touch with the profession?—It has been always thought so, and I have found it of great assistance in the conduct of my work to be recognised as a member of the profession rather than as an official.

49,893. Generally, what is the nature of the work?—My work is about as varied as any human being's can be. I have strictly official work to do that takes a certain amount of my time. I have to visit prisons, and see that persons who are committed for contempt are

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not overlooked, and that their cases are properly dealt with. I have to deal with all sorts of people who are referred to me by the judges and by the officials in the courts. A great many applications are often made to the courts in person, interrupting business, and which cannot be dealt with by the judges at the moment. Then those people are sent to my office, and I make inquiries, and look into the matters. The Lord Chancellor has a vast number of communications made to him by letter, and those are usually sent on to me to look into. I have many other duties. For instance, if a girl of 20 wants to get married, and her parents are lunatics, or cannot be got at, she has to get an order of the Court allowing her to marry, and that is sent to me from the Lord Chancellor, and I see the judges, and communicate with the parties, and get the necessary order. I advise the various departments, for instance, on questions as to court fees; if necessary, pressing a solicitor to pay court fees which he has not paid, advising, for example, the Paymaster-General whether certain orders should be amended, or whether he should pay moneys out. I think I could go on for the rest of the afternoon if I were to try to describe all my duties.

49,894. Would the case you mentioned of a young lady about to be married be the case of a ward of Court?—No: if they are under age they must have the consent of their parent or guardian, and if they have no parent or guardian, or the parent is a lunatic, they have to go to the Lord Chancellor, and his jurisdiction is exercised by the senior judge. That is sent to me, and I have to carry it through.

49,895. Would that be the case if the young lady had a solicitor acting for her?—Yes, if she had no parent or guardian.

49,896. The Court would request you to make independent inquiry?—Probably I should have to. The applications are generally, I admit, from poor people. I do not recollect having had a case where they had means. In those cases they generally have guardians.

49,897. Those are specimens of the kind of work which you describe as your official work, properly so called?—Yes. In such cases I act for the Court, and I have no client.

49,898. There is also a large branch of your work which may be described as work for clients?—Yes. I do not act for anyone who is not under disability. I act for infants and persons of unsound mind. I am appointed either by the Court direct, or on the application of the parties. Frequently there is no suitable person to represent the interests of an infant or a lunatic when there is litigation, and I am appointed guardian *ad litem*, or next friend of the infant or lunatic; or I am appointed by the Lunacy Department Receiver or committee of the estate or person, and I am appointed also by the Court guardian of the person and estate of infants, and have to take personal charge of them.

49,899. Those are all cases where there is no suitable relation or other person to act as guardian or committee?—Yes. Sometimes the Court thinks that their affairs are not being properly looked after, and places them in my hands for the purpose of putting them right.

49,900. For that purpose you are at the disposal of all the divisions of the Supreme Court?—Yes.

49,901. And also of the masters in Lunacy?—Yes. A very large proportion of my work is looking after the persons and estates of lunatics.

49,902. For the first class of work, which you describe as official work proper, I think you are remunerated by salary?—Yes, I am paid a salary of 500*l.* a year for what is called strictly official work, in which I have no client. My chief assistant has 350*l.* a year for his assistance. Those are the two payments made in respect of the post.

49,903. For the other work, for clients, your remuneration is derived from the fees paid out of the estates or by the clients?—Yes. Of course I am usually acting for people who have funds—infants and lunatics—and the Court directs that they shall pay the expenses

incurred, and that means costs, which are taxed in every case and certified.

49,904. What happens in the case of poor persons?—If they have no funds I sometimes act for them by direction of the Court. The new rules, recently made, provide for litigation by poor persons, but there are a great many cases in which I have to act for them and assist the Court, and in those cases, of course, I do not get any fees.

49,905. What is the arrangement as regards the disposal of the fees?—The arrangement, which has been in force for a good many years—I cannot say it was the arrangement which I understood when I was appointed—is, that I take half those fees up to 1,300*l.*, the Treasury taking the other half, making my total remuneration 1,800*l.* The balance is paid over to the Treasury. They audit my accounts and examine them from time to time, and I send them in particulars.

49,906. At present the total of the fees is considerably more than double 1,300*l.*?—Yes, a great deal more.

49,907. So that, in effect, now your remuneration for both classes of duty is a fixed remuneration of 1,800*l.* a year?—It becomes in effect that. The fees have always largely exceeded that maximum, and my limit has been 1,800*l.*, including the official salary, and everything else has gone to the Treasury.

49,908. Before the division the expenses of the staff are deducted?—Yes, all salaries, except the 350*l.* I have mentioned, and all office expenses are deducted.

49,909. What is included in office expenses?—Not very much, because I have my office in the Law Courts, and I do not pay for cleaning, lighting, warming, and office stationery.

49,910. Nor, of course, rent or taxes?—No. Practically it is almost entirely law stationers' charges for copying.

49,911. So that, if it was desired to make an estimate of what the net proceeds for the public purse were, it would be necessary to take into account fixed charges of that kind?—It would, certainly. There would be no difficulty; I can pretty accurately estimate what they would be.

49,912. What is the arrangement as regards the salaries of your staff?—The salaries of my clerks are paid by me out of the profits, but the Treasury have claimed the right of fixing a lump sum, beyond which I am not to go; and since my appointment I have had constant correspondence, and I might say trouble, because they do not always recognise the rights of my staff as I put them, and I have constantly had questions with them. Of course I am under the Lord Chancellor, and it is my duty to refer questions direct to the Lord Chancellor, and, therefore, my correspondence with the Treasury is through his office.

49,913. How many members of your staff are there?—At the present time I have 12 members on my staff.

49,914. Are they appointed entirely by yourself?—Yes, I select them.

49,915. At present, I understand, they have no rights of pension?—They have no pension, and my point is almost stronger than that—that I have no right out of the profits that I earn to pay them any remuneration that I think is right, or to give them any pension or any allowance of any kind on leaving.

49,916. The Treasury have not agreed to your making any allowance of that kind?—On the contrary, they have refused it on the one occasion that has arisen. I have only lost one member of my staff through retirement on account of ill-health and age at present.

49,917. On what terms are they appointed as regards notice? Are you at liberty to send any of them away on short notice?—Yes, they are engaged subject to a month's notice.

49,918. Practically, are they more or less permanent, or does the staff change much?—In the whole 20 years I have only dismissed one clerk, and that was a young man for dishonesty years ago. They are permanent in effect.

49,919. Do they often leave you?—Yes, I am sorry to say they do, because they find they are in a blind road. They have no prospects. The result is that they

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not infrequently get appointments in the legal offices on the permanent staff, and I lose my best men, because they are rather sought after in the other departments. The fact is, my office becomes a sort of training ground for them, and when a man has become thoroughly useful to me and I cannot increase his salary as I should like to do, he tries to get on to the establishment. They are sought after by the masters and by other departments, who know their work because they are constantly before them, and the result is I lose them.

49,920. Have many men passed on from you in that way?—Those I have lost have mostly gone in that way. Five have entered the Civil Service. Two have obtained outside appointments.

49,921. By the Civil Service, do you mean the offices of the Supreme Court?—Not all in the Supreme Court. One has gone to the Privy Council Office, and one has gone to the office of the Public Trustee—I have called that the Civil Service, because I gather that that is what is now suggested. The others are in the building; one is in the Bankruptcy Department, and two in the masters' offices—in Chancery and in the Taxing Office. Before I came one had gone into the Lunacy Department. I have only lost two others; one was the young clerk who was dismissed, as I said, and one has retired. With those exceptions there has been no change in my staff, except additions from below.

49,922. Some of your staff have been with you for a considerable number of years?—Mr. Toone has been there for 42 years.

49,923. Mr. Toone is the senior member of your staff?—Yes.

49,924. There are others who have been with you over 20 years?—Yes, over 20 years.

49,925. Is it your suggestion that that system is an unsatisfactory one?—I think it is unsatisfactory to everybody. It is very unsatisfactory to me. If I were running this business as my own business—and in a certain sense it is; that is to say, I am earning these profits—I should pay my clerks in a different way. I should certainly increase their salaries, and I should certainly promise them a retiring allowance, because the profits are such as would perfectly well allow that, without any kind of charge upon public funds. The result is that they have neither one thing nor the other. They have not got that amount of consideration which I should show them if I was free to show it to them, and they have not got the benefit of being on the establishment.

49,926. The Commission have before them a representation from some of your staff which I think you have seen?—They were good enough to show it to me before they sent it in. Of course, I made no remarks upon it and did not suggest any amendment of it. Speaking generally I agree with it.

49,927. In that representation the clerks who sign it say that they do not express any discontent with their present salaries; the two points which they specially raise are the question of security of tenure of their posts and the question of superannuation allowance. They also raise a question which they describe as "recognition by the authorities of the nature and extent of the work carried out by the department." That seems not to have a very definite or direct bearing on their pay or conditions of service?—I am not quite certain what was meant by that.

49,928. The two practical points are security of tenure and superannuation allowance?—Yes. I should like to say on the question of salary that I have been literally fighting, if I may say so, for these salaries ever since I was appointed. When I have wanted to increase them the Treasury have objected. I have asked the Lord Chancellor to let me have a committee to inquire into the matter, and that has been postponed from time to time. Then the Treasury have given way, but grudgingly. The Lord Chancellor promised when the next question arose that I should have a committee. I reminded him of it, but he then said that this Commission was sitting and I should have an opportunity of putting my case before it, so that it has rather stood over. What I feel is this: The profits have very

largely increased; the last few years' profits have been very large, and the work of the staff has been remarkably good. Many of my staff work overtime, and they certainly ought to be paid for this. Personally I should increase their salaries. I am glad to hear they are satisfied with what they get, and I dare say, comparing it with an outside office, they are not badly paid.

49,929. What should you take as your basis or standard for fixing the salaries of your office? Would it be fair to take the practice in the profession in general?—Not entirely. Moreover, in the case of a solicitor practising alone, especially if his profits are large, I think you would find his salaries would be considerably higher than they would in other large offices. Take a large agency house with half a dozen partners: Very much of the work is done by the partners, and the staff would not be paid in equal proportion; but when a solicitor is working alone and has important work which he must depute, or a great deal of it, to others, especially such work as I have of attending before the masters and being at the beck and call of the judges, you must have a staff that are thoroughly competent and are very well paid. I should not think, if I were in practice alone, of maintaining these salaries and putting into my own pocket the amount of profits that are earned.

49,930. Comparing your office with the office of your firm, should you say that the senior members of your official staff are doing better work and more important work than the managing clerks who work for Messrs. Waterhouse?—Yes, I think so, and I say so for this reason: We have seven partners in my firm, and the junior partners would do the work that my senior clerks are doing, undoubtedly.

49,931. But the work of the principal managing clerks working for your firm is very important and responsible work?—Not so responsible as if there were not so many partners.

49,932. That I appreciate?—A partner would attend where I have to send a clerk. I do not quite know what is paid to them. I know one of my clerks who is now a partner had 500*l.* a year before he was a partner. I think there are one or two who have something like that.

49,933. Would not that be a somewhat exceptional and unusual figure for a managing clerk?—I think it would be. I think solicitors' clerks, taken all round, are not well paid.

49,934. Would not it be the case that managing clerks, as a rule, would have from 300*l.* to 400*l.* a year?—Possibly. I am afraid it is a subject on which I have not found out much, because solicitors do not talk much about these things to one another. I should think very likely that would be the case, but my answer would be that a great many solicitors' businesses are not as large as they were, and I do not think clerks are paid as well as they used to be. I think in the old days when a very large firm had important Chancery work going on they would have paid their clerks quite as much as that, but now the work is not what it was, and I do not think they are paid so much. But I am rather surmising. I do not know that I can speak with sufficient knowledge of what other people do.

49,935. What, in your experience, is the practice of private firms of good standing as regards pensions?—That, again, I believe, very much varies. I have known private firms who are most generous in that respect, and I think there are others who do not give retiring allowances. I think it would depend altogether on the circumstances. I cannot recall, in the case of my own firm, more than one clerk (who retired through ill health) who has been pensioned; I think one or two have been pensioned, but it is not general I should think.

49,936. At any rate the clerks would have no right to a pension?—No.

49,937. And it would be given as a matter of grace in cases of specially good service?—Yes.

49,938. Would you say generally that the position of your staff now, taking into account the hours of work, the salaries, the prospects as to pension, and the whole conditions of their service, is less favourable than the position of corresponding persons in the general

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profession?—I think I should for this reason, that I think their work is exceptional. The official solicitor is expected to have his work done in the very best style possible. He must not send to a master anybody except a person who is thoroughly competent to do the work. The judges expect when they send for me or for somebody that that person will be a person who is able to deal with the case. I am afraid that that might not be said of all the staffs of solicitors who attend in chambers. Certainly I do feel that my staff are rather exceptional, and that my position is somewhat exceptional.

49,939. You have mentioned that your senior assistant receives in all a salary of 500*l.* a year?—Yes, the 350*l.* paid by the Treasury direct and another 150*l.* which I add.

49,940. Are there two other members of your staff who are solicitors?—Yes.

49,941. One of those receives a salary of 520*l.* a year and the other receives a salary of 315*l.*?—Yes.

49,942. And with the rest of the staff the salaries vary between a maximum of 260*l.* and a minimum of 32*l.* 10*s.* for beginners?—Yes. I should like to say that one of the two solicitors serving me is 49 and the other 47 years of age, and they have been very many years in the profession. The gentleman who gets the highest salary other than those—Mr. Simpson—has been with me 21 years, and I had a hint only the other day that he was going to be captured by another department if they could get him and put forward as a second class clerk; it would be a serious loss to my department if he went.

49,943. Is the staff we are speaking of employed entirely on your work as official solicitor?—Absolutely.

49,944. Not on private work?—They are in a different building and in a different office, and have nothing whatever to do with my private work.

49,945. If it was in your hands to organise the office on an entirely fresh basis, what system do you consider would be the best?—I feel that the most important thing is the selection of the men at the outset. My plan has generally been to select quite young men of 16 or about that age. I select them from what I know of them and of their families or their belongings.

49,946. You do not find it necessary for them to have had previous experience as solicitors' clerks?—No, not for these appointments. Of course, if I lost one of my seniors I should have to take one from outside, undoubtedly. As a general rule, these men whose names are before you all began in that way. Then, when they have been with me four or five years and are 21 years of age, by that time they have had considerable experience, and have begun to do work of some considerable consequence and importance. I should personally like, after four or five years' experience of that kind, to have the opportunity of recommending them to be put upon the establishment as permanent clerks with the right to a proper pension. I do not think any difficulty would be likely to arise in that case, because I am bound to select men who are competent for my work, and although I should have no kind of objection to a suggestion which has been made that a committee should have something to say to it before they are appointed, I do feel that in a solicitor's office the principal must not only be consulted, but must have the chief voice in saying who are to be put upon his staff.

49,947. Your suggestion would be a committee of selection, of which you should be a member?—Yes, and something more than a member.

49,948. (*Mr. Coward.*) With a right of veto?—Yes, I could not have a man foisted upon me as a clerk whom I did not want and did not think was at all suitable; it would never do.

49,949. (*Mr. Graham Wallas.*) Would you give the committee a veto upon appointments suggested by yourself?—I would be perfectly willing to do that.

49,950. (*Chairman.*) I understood your suggestion to be rather the other way round, that the official solicitor should have a veto on the appointments recommended by the committee?—I should like to have the initiative to put forward a man for the post and let the committee say if he is suitable or not, and then, when

he has had a good time on probation, to say that such a man should go upon the establishment. Of course, then he would have to be examined as to his physical health and general suitability, but not by any examination as to his book learning.

49,951. You suggest that he should then get a Civil Service certificate without examination?—Yes. It would be impossible for a man who had been five years in my office learning this work to go in for a competitive examination, or in fact any examination in classics or mathematics or anything of that kind.

49,952. What would your suggestion be as regards salaries?—Then, I think, they would come in probably as third class clerks at 20 or 21, and, if they were meritorious, in due course would go to a higher grade, if they were fit for it.

49,953. You suggest that there should be clerks of the three classes into which the legal offices in general are divided?—I would not tie myself to three classes, but I mean there should be an opportunity for them (without their having any right) to be put forward to the higher grades to get from the third or lower grade into the higher grades if competent, and if their work was being done well. I am thinking of my own staff and of the men I know, and they are men who began with 10*s.* a week. The gentleman who now gets about 260*l.* a year began at that, and he is perfectly competent to undertake any work that is done by a first or second class clerk in the Law Courts now.

49,954. You have no fixed age limit for their retirement at present?—No. That is another point. My senior clerk is 71. He is perfectly able to do his work, I am thankful to say, but he would not have a penny piece if he were to retire. The Treasury have gone out of their way to say that under no circumstances is the fact that he receives 350*l.* a year from the Treasury for official work to entitle him to any retiring allowance of any sort or kind, although I pay it out of my own profits. He has had 41 years in the Service, and is known to every judge and to every one in the building.

49,955. Do you consider that you might find the absence of any age limit embarrassing as regards dispensing with the services of a man whose powers began to fail?—I do. I should feel it terribly hard to dismiss this gentleman; in fact, I have no right to. The Lord Chancellor intervened when I was appointed, and said, I must not dismiss him without reference to him; but, of course, that is an exceptional case. I had a cashier who had served me for 30 years, and who retired in ill-health at the age of 59, and I made a special appeal to the Treasury to allow me to give him out of the profits a retiring allowance, but they refused. I know the Lord Chancellor supported my application.

49,956. If the staff were established in the way you suggest, do you anticipate any drawback arising from the absence of the complete control that you have over them at present?—I am not afraid of it. My past experience has shown me that if you are careful in your selection of men, and make them comfortable, and give them a secure position, there is an *esprit de corps* among those men, and I should trust them entirely. I have never had any difficulty, and I do not anticipate any.

49,957. You do not think that their zeal and efficiency arises to any extent from the fact that they know their position is not so absolutely secure as if they were on the establishment, and, therefore, they have to justify their position?—I do not think so. I am very well served, I am bound to say, and always have been all through my life. Perhaps that may have something to do with the way I treat them.

49,958. And you think you would be just as well served if their position were entirely secure?—I think so; if you were careful in their selection in the first instance and gave them a sufficient time on probation.

49,959. If I understand you rightly, your argument in favour of establishment and pension for your clerks is that, in the first place, their positions are practically permanent, and, so far as they are not permanent, it is because they leave to better themselves?—Yes.

49,960. And, in the second place, you find and anticipate practical inconvenience from the difficulty

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of dispensing with the services of clerks who have served you well and efficiently for a number of years when they reach an advanced age, if no pension is available?—Yes.

49,961. Does that represent the argument completely, or is there anything further you wish to add?—Yes, only I hope I have made it clear to the Commission that I think I am in a doubly difficult position. If I am to be treated as a solicitor in practice, as in one sense I am, earning costs, that solicitor ought to have full authority to deal with his profits, so far as the staff are concerned.

49,962. On that point is there not this difference, that in the case of an ordinary solicitor in practice anything he paid to the staff would come out of his own pocket, whereas in this case it would come entirely out of the public pocket?—It would be the case of a sleeping partner. I certainly should not do all the work for a sleeping partner if he were to put his finger into the pie and object to the salaries I was paying my staff. I could not have that.

49,963. In the present case, as it works now, the sleeping partner is, in fact, the sole partner as regards any addition to or diminution of profits?—That is because of a term which has been introduced since my appointment. The original arrangement made with me was that I was to receive half the profits. I never agreed to have a maximum fixed.

49,964. But that is the arrangement which exists at the present moment?—I gave way on that point and make no complaint of it, but that is the reason why I claim that half of it would have come out of my pocket.

49,965. But as things are at present, that arrangement having been introduced, though somewhat against your will, any increase of salaries would come out of the Exchequer?—That is perfectly true, and that shows the impossibility of the present position, if I may say so. The Treasury cannot know what my staff require. One gentleman in the Treasury told me that it was not the practice of solicitors to give regular increments of salaries to their clerks. I can assure you that I begged for an inquiry by a practical body, and have not had it. I am sorry if I speak too warmly about the Treasury, but they have been the only anxiety that I have had in the 20 years. I believe I have done my work to the satisfaction of every human being in the building, but I have been constantly worried over this question.

49,966. The Commission are only anxious to arrive at a full statement of your argument, and, as we have not got the Treasury to speak for itself at present, I am representing to you the points which occur to me as, perhaps, representing the case of the Treasury?—Of course I understand it comes out of the pocket of the Treasury in that sense; that is to say, it comes out of the profits I am earning for the Treasury.

49,967. The Treasury might say that a system would not be satisfactory under which the individual head of an office had complete power of increasing the salaries of his clerks if that increase falls on the Exchequer?—That forces me to the conclusion that the system of having established clerks with fixed salaries would be very much more satisfactory.

49,968. In fact there is a certain incompatibility in the present system between the individual control which you are supposed to exercise and the fact that the net profits of the office as it stands at present go entirely to the Treasury?—Yes; and therefore, as I am working for the profit of the State, those who are earning the profits should be on the establishment. That is my point.

49,969. I should like to ask you a few questions not relating to your own department, but relating to your experience of other departments. You have constant contact with the Chancery offices and the Lunacy office?—Yes. More with the Lunacy office than with the Chancery offices. I know the Lunacy Department, I think, down to the ground. I have 500 or 600 cases of persons of unsound mind under my care, and I am there every day.

49,970. The majority of the estates under your care are those of persons of unsound mind?—Yes.

49,971. Do you find that as organised at present the Lunacy offices work satisfactorily?—Yes, I should like to say that I think the office works exceedingly well. I did not realize until yesterday that the nominations to the posts in the Lunacy Department are practically in the hands of the masters. I am told that they suggest, and that the Lord Chancellor appoints, and he always appoints on the recommendations of the masters. I have always noticed that the staff of the Lunacy Department work more together; that there is more *esprit de corps* in that department; and, taking it all round, I think they do their work as well as any department in the building, and they have an excellent staff. I am inclined to put that down a good deal to the fact that the masters, who are in close touch with their staff there, have practically, at any rate, the initiative in the appointment of men who are working under them.

49,972. The masters being the persons who have most interest in the work of the office being properly performed?—Yes. Then the masters there are in far closer touch with their department than a judge is with his department in Chancery; they are in close touch with their staff. The staff see them; they sit in an adjoining room, they are there all day, can be consulted and are consulted at any moment. The whole department works, I think, most satisfactorily. Perhaps I may add one more point: It is a department the work of which is not very familiar to the public or to the solicitors. A great many solicitors have very little Lunacy work, but they will always find there every possible help in carrying through their work; the staff pride themselves, I think, on giving personal help there. The result of it is that, speaking generally, I think the work is exceedingly well done and done with great satisfaction to the profession.

49,973. It has been stated that inconvenience arises from the fact that the two masters in Lunacy are co-ordinate officers, each acting independently, and that differences of practice arise between them. It has been suggested that that might be remedied by having two masters, of whom one should be the chief and the other more or less subordinate to him, so as to secure uniformity of practice. Have you experienced any such inconvenience?—There are variations of practice, and there have been in the past. We have had masters with strong individual views of their own. I am not saying anything disrespectful to Master Theobald, but he has very strong opinions of his own on reforms on various subjects, and he does not always carry the other master with him. There have been differences, but I do not think they are serious ones.

49,974. Do you think the suggested remedy would be a desirable one?—I doubt it. I should have thought the best thing was that the two masters should confer on these matters and agree to act together. I should have thought there was no serious difficulty in that. They are not differences on very important matters. For instance, one master says: "You must swear an affidavit"; the other says: "You must sign a document and certify it." One says you must have only one medical man's evidence, and the other thinks there should be two. You have to learn the differences, undoubtedly; but it would be very much better that they should agree, and I think they might, without any serious difficulty. Possibly they will now there is a new master.

49,975. It might be easier to arrive at an agreement if one had the ultimate voice?—It might not be the best result.

[49,976. Would not it be better to have agreement, even if not the ideally best decision?—If I were one of the masters, and the other master would not agree, I should go to the Lord Justice and ask him to settle the question, because the masters are under the Lords Justices. I do not think it is really a serious question. I should be sorry to see one master under the other. It would be only like putting in a senior clerk.

49,977. You have not in practice found any serious inconvenience owing to that?—No.

49,978. You say you have not so much contact with the Chancery offices?—I have a good deal, but not such

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an intimate relation. I know all the different masters and their work.

49,979. Do you find the work there done in a satisfactory manner?—I think so generally, certainly. Of course, there is a great deal in personality. Some men are better workers than others; but, speaking generally, I think the work is well done.

49,980. Before you became official solicitor had you much contact with the Chancery offices?—Yes; perhaps more even than now, personally.

49,981. Since that time the work of the Chancery Division has very considerably decreased?—Yes, in my judgment it has decreased considerably.

49,982. Judging by the statistics, it has decreased somewhere between one-third and one-half in the last 25 or 30 years?—Yes; and, judging also from what I know of practising solicitors, most solicitors will tell you that their Chancery business is not what it used to be 20 or 30 years ago.

49,983. There has not been a corresponding diminution in the number of masters or their staff?—There has not.

49,984. Do you consider that, as things stand at present, that office is somewhat overstaffed?—I feel great difficulty in answering that. I can speak of my own department, but I cannot speak with certainty with regard to theirs. I know one or two of the masters exceedingly well who think that they have a full day's work. I know others who think the reverse. I cannot help thinking that, having regard both to the statistics and to my knowledge of the changes in Chancery work that have taken place in the last 40 years, they are not fully occupied.

49,985. Have you much contact with the Registrars Office?—Yes. In 1907 I was on a committee, of which Mr. Justice Kekewich was chairman, which went into the whole organisation of that department. Then three out of the six members—I was one of them—were of opinion that that office should be merged in the Chancery Masters Office entirely; in other words, that all orders made by Chancery judges, and by masters in Chancery, should be drawn up in their own department.

49,986. Is there any insuperable difficulty in carrying out that change?—No. That was in accordance with the recommendations of a committee presided over by Lord Esher some 20 years before, and in accordance with a unanimous resolution of the Chancery judges in 1892; but in 1907 they had changed their minds, and said it would not do.

49,987. The Commission have before them the Report of the Committee of 1907, but that report does not indicate the considerations which made the judges change their opinion. It does not state why the judges thought it necessary that the registrars should remain on the present footing. Can you enlighten us on that point?—I cannot in the slightest. We on that committee unanimously came to the opinion that the sitting of a registrar in court every day was quite unnecessary. For instance, the Court of Appeal is dealing with a legal question, and legal arguments are put before them all day, and even when they are dealing with evidence they have no fresh evidence put in; they have merely to refer to the evidence in the Court below. Why a gentleman of that eminence should sit below the three judges to assist them, I cannot myself conceive. We recommended that a senior clerk should do the work. Then the same applies to Chancery judges when they are taking cases which are mere arguments by counsel.

49,988. (*Lord Mersey*.) Can you tell us what the work of the gentleman who sits below the three Lords Justices in the Court of Appeal is?—I am afraid I cannot say what he does.

49,989. I have seen him very often, and I do not know what he does?—I cannot conceive what they want him for, because he does not help them with the law. I was told that that was one of the objects in old days.

49,990. A magistrate's clerk sits below the magistrate and he helps the magistrate with his law, but I do not think the gentleman in the Court of Appeal helps the Court of Appeal very much with the law?—I should be sorry to suggest that his presence was necessary on that account. There is another point with regard to

the Registrars Department, that if the judges who make the orders, and the masters who make the orders, cannot draw up their own orders, or cannot have a proper officer in their department who is capable of drawing up the orders, I confess I do not see why you should form an entirely fresh department to draw them up.

49,991. (*Chairman*.) It has been suggested to the Commission by some witnesses that the Chancery orders are of such a complicated and difficult nature in many cases that it is necessary to have a number of gentlemen of eminence and long experience in that particular work in order to draw them up; in fact, that this work is so difficult and complicated that it is impossible to combine it with any other functions. Is that your opinion?—No, I may say that it is a very common thing for a judge in Chancery, when an order is complicated, to direct counsel to draw the minutes. The result of it is that parties have to pay their two counsel fees for settling minutes, and the minutes are drawn up and settled between them, and they are sent to the registrar, and the registrar does what counsel has drawn for him. Then if there is any difficulty it goes back to the Court, and counsel are instructed upon the minutes and there is another fee, and they have to ask the judge what he meant. All this goes on at the expense of the suitor. I am bound to say that I think it ridiculous.

49,992. The result of the present system is that a great deal of the work has to be done twice over?—Yes.

49,993. The judge or the master becomes familiar with the facts in arriving at a decision, and then the registrar, or his clerk, has to familiarise himself with the facts in order to draw the order?—Yes.

49,994. That duplication of work would be saved if the master drew up his own order?—I think it is perfectly obvious. A great many orders are made by masters in chambers, and those orders, of course, they know all about. If the judge sits in chambers, as it is called, the master is with him once a week, and then he knows all about those orders. The only orders the master does not know anything about are those made by the judge in court, and those can be dealt with, and if necessary a senior clerk could sit in court and take whatever note is necessary. But it cannot be necessary for registrars to sit there to take a note of the judge's order. Moreover, they have the counsel's briefs. Counsel endorse their briefs with the order, and ought to endorse them quite sufficiently to enable the clerk to draw up the order.

49,995. You have, of course, some contact with the Taxing Office?—Yes.

49,996. Your bills, as between yourself and the client, are frequently taxed?—Always, because I act only for people who are under disability. Nobody can agree a bill of costs that I send in; they are all infants or lunatics, and they cannot agree, so all my bills of costs are taxed by the Taxing Office. Occasionally, when an infant comes of age or a lunatic dies, their representatives may agree the bill if they like.

49,997. Do you find that that office works in a thoroughly satisfactory manner?—I think it works very well. I certainly think that that is work specially suited to solicitors. I saw it suggested that solicitors would be lenient towards their brother professional men, but I am sure that is not the rule in the Taxing Office. I think they know—if I may use the expression—the tricks of the trade, and know when a bill is an honest bill and when it is not.

49,998. (*Lord Mersey*.) Surely there are no dishonest bills, are there?—It is a strong expression, perhaps, but I know perfectly well that there are people who can make out a bill which comes to a great deal more money than they have earned—there are such people.

49,999. Are there?—Yes, I think so. At any rate it is necessary to have people to see to it. There are smugglers, and they are prevented from smuggling by the fact that you have your coastguards.

50,000. (*Mr. Shipley*.) Your office is in the Law Courts?—Yes.

50,001. Are the rooms well ventilated and well cared for?—Very well indeed. My predecessor was on the

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committee which appropriated the rooms, and I think he chose some of the best for himself.

50,002. (*Mr. Graham Wallas.*) There are others which are not so well ventilated?—I do not think any of them are overcrowded at all, so far as I know. The only place where I saw rooms overcrowded was the Public Trustee's Office. I was on a committee to deal with his department, but I believe he is moving into more palatial premises.

50,003. (*Sir John Kempe.*) The lump sum arrangement made by the Treasury is the same with you as with other solicitors of Government departments, but I understand you to say that you are on rather a different footing, because your arrangement is made with a view to your being a practising solicitor concerned with the actual earning of costs?—I am practising as a solicitor outside the building nominally, but practically not. My business in the Law Courts is, of course, different in this respect, that clients are sent to me by the Court, or I am appointed to represent clients—infants and lunatics—and then I am paid proper costs out of their estates.

50,004. Do you mean you really are on exactly the same footing now as other solicitors of departments in respect of the lump-sum clerks?—Yes. I have a lump sum fixed by the Treasury. That is a thing which I objected to in the first instance.

50,005. Of course that system was instituted by the Treasury with the direct object of enabling the solicitors to place their offices more or less on the same footing as a large private solicitor's office, and to get all the advantages of being able to dismiss their men, and enlarge or reduce their staff as the work altered?—Yes.

50,006. Is not that of importance? Have not you found that useful?—My experience has been that I have never dismissed a clerk and never had any difficulty. If they had been on the establishment things would have gone on just the same, only I should not have lost some very good men.

50,007. Your work does not fluctuate; you have not to reduce your office one year and increase it another? No; I do not think many solicitors' offices are of that kind; they are either growing or diminishing.

50,008. A private solicitor's office would, I suppose have to be altered like that to suit circumstances?—In my own private office we have never had occasion to vary; our clerks were all permanent clerks. It was the rarest thing to dismiss a clerk or to change one.

50,009. How do the clerks you appoint compare with the other clerks in the Law Courts? Are they the same class of men, or do you find they are better because you have chosen them yourself?—I do not say they are better because I chose them, but I think they are better because I have trained them. I mean the work that they do in my office is of a very varied kind. There is nothing in the way of mechanical work in my office; there is no copying; that goes outside. There is nothing of the really mechanical kind. Every clerk almost from the first has a certain amount of responsibility. The clerk I have been mentioning more than once has to prepare accounts to be passed by the masters in Chancery and the masters in Lunacy. He has to settle the bills of costs; he has to attend appointments, and has to draft affidavits and settle them, and that sort of work. The result is that the experience they get in that way makes them exceedingly useful for appointments in the building.

50,010. But you have no difficulty in training them. What class of men do you draw them from—solicitors' clerks?—Yes. I should say that, except those who are professional men, they are taken from the sons of working men or tradesmen.

50,011. They are not trained up in legal qualifications in any way?—No. If I select the younger men, they are not. I have had one or two who have been a few years in a solicitor's office, but I like to train them from the first if I possibly can.

50,012. You have found no difficulty in the training of a man from outside who has not been in a solicitor's office?—No, but not for the higher posts.

50,013. But they grow to the higher posts?—It depends. I have got two solicitors of good standing, both of them University men, who are doing my principal work, and Mr. Toone, who is rather an exceptional clerk, who is not a solicitor.

50,014. You say you would wish to retain to yourself the selection of clerks. Supposing your clerks were established, you would still wish to retain a voice in the selection of them?—Certainly.

50,015. Why should your office be different from other public offices in that respect? Other public offices find that they can get the right men without selecting them themselves?—I do not think legal departments do. I read only last night the evidence of the solicitor to the Treasury given before this Commission, and I agree with every word he said. I think his evidence was very much to the point. I think in solicitors' departments you do want men who, at any rate, if not of your own selection, are men you have a considerable voice in the selection of.

50,016. (*Miss Haldane.*) I was very much interested in your account of the miscellaneous character of your duties. Do you personally visit the prisons or do you have to have a staff which does that?—I visit the prisons myself, and I visit the lunatics myself, though at times I employ others. I employ a medical man, and ladies sometimes, to visit.

50,017. Do you employ women at all?—Yes, sometimes.

50,018. Whom do you employ? Are they persons whom you select personally?—Yes, I sometimes select a lady relative whom I know well. I need not mention names, but I have a case at Norwich that I have to see, and I ask a lady there, the wife of a solicitor, who is a very well known man, to visit in that case and report to me.

50,019. But that is privately?—Officially, I pay her a fee.

50,020. You simply select somebody you are acquainted with personally. You do not require any particular qualifications?—No.

50,021. Excepting that you think he or she is qualified?—I know the patient and I know the lady I ask to visit.

50,022. What sort of fee is paid for this work?—It depends whether they have to travel or not. If they are in the same town I would pay them a guinea or two guineas, as the case might be, for the visit and the report.

50,023. They would visit the individuals in prison?—I am speaking now of lunatics. Those in prison I have to visit myself.

50,024. You do not delegate that duty to anybody?—No.

50,025. Even in the case of female prisoners it is just the same?—Yes; but I am thankful to say that I have very few female prisoners. It is contempt of court cases that I visit, and I have not had a female prisoner to visit now for a long time.

50,026. Supposing they were overlooked in any way, would they remain in prison?—There is a little danger. One of the judges once summoned me to his room very suddenly and said he had committed to prison at Gloucester, six weeks before, somebody for contempt, and he had forgotten all about it and he asked me what had happened. I was able to tell him that every governor in the country makes me a report the moment he gets a prisoner for contempt, and I keep a register, and look through it at intervals, and if I find that somebody has been there any length of time, and I do not know anything about the case, I communicate with the governor or with the solicitor, or sometimes with the judge.

50,027. But supposing if, by any mischance, you also forgot about a case, would the individual go on being in prison for ever until you happened to remember about it?—I am afraid that would be so, and that is the object of my keeping a record. The Lord Chancellor has a notice also which he sends on to me. But there is no chance of an oversight if a proper register is kept. The difference is that most people are committed for a term; but if a person is committed for contempt of court

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it is for an indefinite term, and unless there is somebody to look after him he might be overlooked.

50,028. And it all rests on your office, or on you yourself, in fact?—Yes. A governor of a prison would, no doubt, report sooner or later; but I think those prisoners are to some extent dependent upon my care.

50,029. Is not there now a certain amount of indefinite imprisonment of another kind—cases sent to prison for indefinite terms. It is done in America a good deal?—There are no prisoners for indefinite terms except for contempt, as far as I know. There are some imprisonments by the Inland Revenue for non-payment of taxes, but those I have nothing to do with.

50,030. Then you have a good deal of travelling, because you go to prisons in the north of England sometimes?—I visit persons of unsound mind all over the country.

50,031. And also prisons?—I have to occasionally; but if one was in Newcastle he would be reported to me by the governor, and I should usually deal with it by correspondence. I have only regular visits to pay to what are called the King's prisons; that is, Brixton and Holloway. I visit those regularly. If a case is reported to me and the person wants assistance, I either employ an agent on the spot, or send Mr. Toone down to make the necessary enquiries.

50,032. When you say you visit regularly, how often do you visit?—I have to visit each of those prisons in London four times a year.

50,033. (*Mr. Clynes.*) You have spoken of the refusal of the Treasury to meet your wishes on any of these occasions. Could you say whether their reasons are known. Did they state them to you?—I think they say: "If you are on this lump-sum system we cannot give you anything more." I have tried to arrange that I should pay out of the profits, but they objected to that. There has been only one case of actual retirement where I have wanted it, but they have written me about Mr. Toone's case and told me that they would not allow any payment to him.

50,034. Have these matters ever been the subject of parliamentary discussion?—No, I do not think so.

50,035. (*Mr. Coward.*) The Chairman asked you about some of the different branches of the legal departments, but he did not ask you whether you had any experience of the Probate Registry. I do not know whether you can say anything about that. They have in the Probate Registry about 125 clerks. Can you tell us anything at all about the Probate Registry—whether the work is well done, or whether there might be any reconstitution, or anything of that kind?—I am afraid I should not be able to answer that question effectively. I know less of the Probate work than I do of other departments.

50,036. In your own office—whether in your official solicitor's office or your private office—is it your practice to increase the salaries of your clerks irrespective of merit?—We have a list every year, and the partners go carefully through it, and we should increase the salaries unless we had some special reason for not doing it. We should not do it if the clerk had not been satisfactory.

50,037. Then I suppose you would not increase them by very much when doing that?—No; 5*l.*, 10*l.*, or 15*l.* increase per year as the case may be.

50,038. What are your office hours?—They are a great deal longer than they are in the courts generally. We begin at 10 and are supposed to close at 6, but I very rarely leave at 6, and my staff, I am sorry to say, sometimes stay a good deal later than that.

50,039. And in the Long Vacation?—Our office is always open all the vacation, but of course the staff have to take their holidays during that time.

50,040. What holidays do they get?—A month for the seniors, and three weeks and two weeks for the juniors—it is not quite enough.

50,041. And the short vacations?—They would not get more than a day or two except for exceptional reasons.

50,042. You were asked whether you were in the habit of getting junior clerks from other solicitors'

offices. The fact is you are a solicitor, and you train your clerks?—That is so; I prefer to train them.

50,043. You bring them up, I suppose, in the way they should go?—I try to.

50,044. (*Mr. Graham Wallas.*) In the representation from your clerks, the following sentence occurs: "Should any radical change be made in the department (and this has been threatened on two recent occasions) it is difficult to assume that posts would be actually created to find employment for the staff." Do you know what those two different occasions are to which they refer?—I think one was my intended retirement. The difficulty is this: If I retired and a new solicitor was appointed he might bring his own staff there and tell all the present clerks to go. He would not be so foolish, I hope, but they have no certainty. When I was appointed they did not know whether I was going to bring my staff or whether I should adopt them.

50,045. Do you know what the other occasion was when such a radical change was threatened?—You must ask my manager, but I rather think it was in regard to the fact that there was a suggestion by the Lunacy Department that they should not only adjudicate on the lunatics, but attend to everything and do the whole thing themselves. (*Mr. Sant.*) I think the two occasions that we had in mind were these: There was a suggestion at one time that the Public Trustee should be eligible to be appointed receiver of lunatics' estates, which I do not think at the present moment he is. That would have taken perhaps three-quarters of the work out of the official solicitor's department. The other occasion, I think, was when a suggestion was made that in the Lunacy Office there should be a sort of official committee, appointed by the Masters in Lunacy, who would apparently form part of the masters' staff and manage the smaller lunacy cases; and that again would of course seriously affect the work done in our department and entail a reduced staff.

50,046. (*To Mr. Winterbotham.*) You were asked about the Chancery registrars, and from your opinion I gather that the work done by the registrars now could be done as part of their ordinary duties by other persons in other offices?—Yes.

50,047. That is to say, the Chancery registrar is the fifth wheel upon the coach?—Yes.

50,048. And is frankly no use to the public?—I do not say they are of no use, because they do some very valuable work, but I think it would be much better done as part of the work of the Chancery masters.

50,049. You are aware that the salaries in the Chancery Registry amount to more than 20,000*l.* a year?—They would have been 10,000*l.* more if it had not been for our committee in 1907. They have reduced the number from 12 to 8.

50,050. But it remains at an expense of more than 20,000*l.* a year?—It is a very expensive department. I may mention that in the Lunacy Department they draw up all their own orders.

50,051. (*Mr. Boutwood.*) You spoke about the establishment of your own clerks, but have you thought out in detail how that will apply to the existing men? For instance, with regard to their claim for pension, what would be your views as to their back years?—I think that the claims of these men who have been for many years practically in the service of the State, should be duly considered. They have been doing all through these years the work that other people have been earning a pension in respect of, and I think they ought to be dealt with accordingly. Take the case I mentioned. This gentleman, as I say, has been doing important work for 41 years; he has been entirely in the service of the State, and, I think, that ought to be reckoned to him.

50,052. Do you mean that the whole of his 41 years should count towards a pension or only part of them?—I think 40 is the total that will count. Certainly, in his case, I think it should. I think it requires to be applied with proper care. He is the only one at the present moment who would be retired naturally on the ground of age.

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Mr. WILLIAM HOWARD WINTERBOTHAM, accompanied by
Mr. EDWARD SANT.

[Continued.]

50,053. Speaking generally, you think if establishment takes place, past years should count approximating to the full number of years for pension?—I think so, but it might be that only part should count. You are making a change, and you are giving them something to which they are not entitled at the moment.

50,054. I wanted to get what your view was on the point?—If it is just, I think it ought to be done, but if you are giving a man something you have withheld

from him for many years, he might be very glad to take half.

50,055. As a matter of fact, what do you think is just?—I think such men as I have mentioned ought to receive the same amount as they would if justice had been done to them in the first instance.

50,056. As if they had been on the establishment all the time?—Yes, but, as I say, a smaller measure of generosity would no doubt meet the case.

Mr. EDWARD SANT, called and examined.

50,057. (*Chairman.*) The Commission have before them the representation from the staff of the official solicitor, and some points in it have been dealt with already in the course of Mr. Winterbotham's evidence. Are there any other points you wish to mention specially to the Commission in connection with it?—I do not know that I have very much to add to what appears in the petition, but I might draw attention to, and emphasise one point, if I may. In the Commissioners' fourth report, on page 52, there occurs this passage, with reference to the staffs of solicitors' offices not on the establishment: "The work of these men " is permanent and their service is continuous. " They lose touch with their profession as their " specialised experience increases, and they have no " certain prospects, security of tenure, or pension " rights, while they work in intimate connection with " officers who admittedly often perform less important " duties, and who do not suffer from these disabilities." All the staff of the Official Solicitor's Department are in continual and intimate association with officials, who certainly do not do more important

work, and who, almost without exception, are paid higher salaries, have shorter hours of employment, have longer vacations, and have security of tenure with pensions at the end of their terms of service. That naturally gives rise to a feeling of soreness amongst us all, I think, and perhaps encourages a feeling of discontent, which does not, I submit, make for efficiency in any office or department.

50,058. The point you wish to bring out is, that the paragraph of the Commission's previous report which you quoted is specially applicable to your department?—Yes, peculiarly applicable to our department. I think I have nothing else to add.

50,059. (*Mr. Boutwood.*) I do not know whether you know that the Public Trustee's Department is now in process of establishment?—I have heard so.

50,060. Do you know the details of it?—No, I do not.

50,061. I was going to ask you whether that sort of establishment would meet your view of the case?—I am afraid I am not sufficiently familiar with it to answer your question.

ONE HUNDRED AND TWENTY-SECOND DAY.

Thursday, 18th March 1915.

PRESENT:

;(Sir HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. JOHN ROBERT CLYNES, M.P.
Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. FREDERICK CAUNT (Managing Clerk to Messrs. Chester, Broome and Griffithes), called and examined.

50,062. (*Chairman.*) You are a managing clerk to Messrs. Chester, Broome and Griffithes?—That is so.

50,063. How long have you been with them in that position?—Thirty-three years.

50,064. Thirty-three years altogether or as managing clerk?—Thirty-three years altogether—31 years as managing clerk.

50,065. With which branches of the court is your work chiefly concerned?—Chiefly with the Chancery Division, Companies (Winding-up), and at first Lunacy, and during the last two years Lunacy. There was an intervening period when Lunacy was done by another department, and I have now taken that over again.

50,066. What kind of business comes to your firm?—It is a mixed business of agency and proper. Agency work is work sent to us by country solicitors, and there is also work where we are properly concerned.

50,067. You have a considerable amount of agency business?—Of both.

50,068?—Will you tell us, from your experience of the departments of the court, what you consider the most suitable source from which to draw the staff for

those departments?—My view is that for the staff appointments, such as the first and second class clerks, the most suitable men are to be found in solicitors' offices who have had a good legal training.

50,069. Do you apply that also to clerks of the third class?—I think it would be better.

50,070. In your dealings with the offices do you mainly come in contact with the clerks of the higher classes?—With the higher classes. My junior would come in contact with the third class clerks more than I should.

50,071. But in the past, when you yourself were a junior, you frequently came in contact with the third class clerks?—Yes, I did.

50,072. Do you consider the work is well done on the whole?—I do.

50,073. The staff are competent for the work which they have to perform?—I think so.

50,074. But you suggest that for the whole of the staff—first, second, and third class—previous experience in a solicitor's office is desirable?—In my view that is so. I am very clear about that.

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Mr. FREDERICK CAUNT.

[Continued.]

50,075. Do you think that the clerks of the third class cannot learn their work satisfactorily in the office itself?—In my view they cannot. You want years of experience. There is so much detail which is only acquired by long experience. A man who has been preparing cases for use in chambers is, in my view, the better man to deal with them in an official form.

50,076. Are you speaking specially now of the Chancery and Lunacy offices, or do you apply that to the offices of the Court as a whole?—I am only speaking as regards the Chancery, the Companies (Winding-up) and the Lunacy. I am not very well versed in the King's Bench practice, as I have had so very little to do with that.

50,077. If a man goes into one of those offices from outside without previous legal experience, do you think he will never learn the work properly at all, or merely that it will take him longer to learn it without previous experience?—I would not say that he would not learn the work. A man of average ability would, but it would take time, and he would never be so efficient as a man who had had a legal training such as I have spoken of.

50,078. You think, even when he had learnt the work, he would be less competent than the man who had had previous experience?—I do.

50,079. Is that because of the actual knowledge he would have obtained outside, or the mental training and the attitude of mind that he would have acquired?—I should say it is due to both. The actual knowledge he would have acquired outside in all its detail—the drafting of affidavits to answer inquiries, the attendance before the master, proceeding thereon, and all that, is knowledge which must be acquired by actual practice. It is not a thing which a man who is taken straight into the office could learn by observation.

50,080. But he would be constantly dealing with those documents in the office?—I admit he would, and to that extent he would get a great deal of knowledge; but in my view he would never be so efficient as a man who had had legal training in a solicitor's office.

50,081. Would he not acquire all that which was necessary for him to know from the office point of view?—I should not like to say no to that, but I should think it very doubtful.

50,082. At any rate you consider that he would be the more efficient man ultimately if he had had this outside experience?—Certainly.

50,083. As regards the method of recruiting the offices, as you are aware probably. The present system, generally speaking, except in the Registrars Office, is to recruit for the third class and then to fill the higher classes by promotion from the third class?—That is so.

50,084. Do you consider that that is the right system, or do you consider it better to make appointments direct, say, to the second class?—Direct, I think.

50,085. In all cases?—Yes.

50,086. The result of that would be to have a third class which was not habitually promoted, and which would remain third class all its official life?—Yes, that would be the result.

50,087. Do you consider that that would be the best arrangement?—I certainly do.

50,088. Taking the present scale of pay for the third class, which is 100*l.* rising by annual increments to 200*l.*, do you think you would get men of sufficiently good quality for the work of that class if they had no prospect of promotion beyond that?—You would not get a man from a solicitor's office who was qualified to take a second or first class clerkship, and that seems to me the difficulty.

50,089. But you think you would get a man who is quite sufficiently qualified for the work of the third class?—Certainly.

50,090. And who would be content all his life to remain in the third class?—I should not say that. Everybody is ambitious, and no doubt he would want to get promotion. That is only natural; but at the present rate of remuneration you would not secure a qualified man from a solicitor's office who had been

holding the position of a managing clerk to go into the courts at 100*l.* a year.

50,091. Do you not, as a matter of fact, at present get some men of that class entering in consideration of the future prospects?—I should think it is very probable you do.

50,092. But if there were no prospects of rising beyond 200*l.* you would not get those men?—I should say no.

50,093. Nevertheless, you think they would be sufficiently good for the work of the third class?—I think you would find men who would be quite qualified to carry out the duties of a third class clerk.

50,094. The duties being of a routine and clerical character not involving the exercise of much discretion?—Quite so—issuing summonses; giving appointments.

50,095. Filing affidavits, and so forth?—Yes, and filing certificates; sending papers to the judge.

50,096. Do you think that the prospect of discontent in that class is a serious drawback to that system of recruitment?—It is a rather difficult question. What I would suggest would be that he would be a junior clerk, and on the same footing as I understand you have junior clerks now in the Civil Service—that he gets to a certain position and there he stops, and he has to go to something else by means of examination, or something of that sort. I do not think you would get a man to take a third class clerkship who would be qualified in other respects for a first or second class clerkship, because he could not afford the drop in his income.

50,097. Could not you get a man young who has the personal and intellectual qualifications that would enable him to become an efficient clerk of a higher grade later, but who has not yet reached a point where his salary has increased much beyond 100*l.* a year?—You would catch a man of that sort.

50,098. So you might catch a man—as, indeed, I think you do at present—who has the necessary qualities, but who has not very long experience?—That is so.

50,099. As regards recruiting for the second and first class, you suggest appointment direct to the second class, and subsequent promotion, I suppose, from the second to the first class?—Certainly.

50,100. Do you consider that the class of solicitors' managing clerks would be the suitable field from which to draw candidates for these appointments?—I think so. It is a very good field, and, I think, they would supply all the wants, and I do not think you could improve on that.

50,101. At what age would you suggest their appointment to that class?—I should think at 30.

50,102. At 30 you will get a man with, I suppose, 13 or 14 years' experience in a solicitor's office?—At least 10 years' experience.

50,103. At what age do clerks generally enter solicitors' offices now?—I should say at about 15.

50,104. For the first few years are they doing work of a mechanical character?—Yes, junior work, postage work, and delivering papers to counsel, and so on.

50,105. (*Mr. Coward.*) Copying letters?—Yes.

50,106. (*Chairman.*) At what age do they begin to do work requiring intelligence?—I have had very intelligent boys with me beginning at 16.

50,107. What is the earliest age at which a man would become a managing clerk?—That depends very much upon the man himself. I have known managing clerks at 19 and 20.

50,108. What do you suggest would be the best method of selection of the persons whom we are considering for appointment to the second class?—I do not know with whom the appointment rests, but if it rested with a judge of the Chancery Division I should think he would be able to make a selection. From what I know of the judges they would have no difficulty.

50,109. At present the appointments in the Chancery offices rest, generally speaking, with the Lord Chancellor?—The Lord Chancellor does not come in contact with the clerks like the judges of the Chancery Division do. They come more into personal contact with the clerks than the Lord Chancellor or his

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Mr. FREDERICK CAUNT.

[Continued.]

secretary do, and are able to form some opinion of a man's ability.

50,110. Do you suggest any examination test, either competitive or qualifying?—I do not think that is necessary.

50,111. (*Lord Mersey.*) No examination is necessary?—I do not think so.

50,112. (*Chairman.*) You think the qualifications can be sufficiently tested by information obtainable apart from examination?—Certainly. If the judge had any difficulty his master would be able to help him.

50,113. Have you known in the past clerks appointed to the higher classes direct?—I am trying to recall a case. I am not quite sure whether Mr. Naylor was appointed direct to a first class clerkship. I knew him personally.

50,114. Was he in a solicitor's office before that?—Yes, he was in the same office as I am in now. He was my predecessor, and was there many years.

50,115. You suggest that appointments should be made to the second class, and that the first class should be filled by promotion from the second class. What do you think the right principle on which that promotion should be conducted?—As the distribution of business at present stands a master has a first class clerk and a second class clerk, and I think that the second class clerk should step into the shoes of the first class.

50,116. Among the second class clerks there will be men of very different degrees of merit and ability?—Quite so.

50,117. Is it not important that the best men should be selected for appointment to the first class posts?—I am afraid that would lead to very great difficulty, and I do not know whether it would become workable.

50,118. In your own office do you or your principals select men by seniority for appointment as managing clerks?—In my own office the answer would be that they go up by seniority, because when unfortunately we have lost a managing clerk his second man has taken his place.

50,119. At what age did you become a managing clerk?—I think I was just about 20.

50,120. Were you selected by seniority?—Mine was a new post opened.

50,121. The appointment to that new post was not made by selecting the senior man in the office at the time?—No, it was not. My appointment came about in this way: the Chancery work at Messrs. Chester and Co.'s office was done in one room, and it was found that there was too much for one room to conveniently deal with, and thereupon Mr. Broome opened another room. I was the leading junior clerk in the first room and I was appointed managing clerk in the second room.

50,122. Were you the senior of those who were not managing clerks?—Yes.

50,123. At the age of 20?—Yes.

50,124. (*Lord Mersey.*) Do you remember Mr. Jennings?—Yes, I had him in mind when answering the Chairman's question.

50,125. Unfortunately he died many years ago. Did his junior, the man immediately below him, succeed him?—He did.

50,126. What was his name?—Mr. Schofield.

50,127. Is he there still?—He is there still.

50,128. Mr. Schofield is a man of very great ability, as Mr. Jennings was?—I think so.

50,129. And therefore he may have been selected because of his ability?—I have no doubt that if he had not been an able man he would not have got the appointment. That goes without saying.

50,130. (*Chairman.*) Speaking generally, in solicitors' offices, do you think the important posts are filled by seniority?—I think they are.

50,131. That does not entirely agree with statements that we have already had in evidence?—It may not, but I am looking back now at a firm like Bell, Brodrick, and Gray. I remember their managing Chancery clerk was a gentleman named Jewitt, who was there for years and years. His junior clerk, when Mr. Jewitt retired, took his position, and I have known that happen in many large offices.

50,132. (*Mr. Coward.*) Is it not for another reason, that you train up the junior with that object, and if he did not come on well as a junior you would get rid of him?—That is it.

50,133. (*Chairman.*) In fact it is really selection, but the selection takes place at an earlier point; it is the selection of the man who is second in command?—Quite so, and as Mr. Coward put it to me, he would not be second in command if he had not got the ability. He is gradually coming along.

50,134. But your suggestion as regards the legal offices, if I understand you rightly, is that promotion should be by seniority irrespective of ability?—May I answer that in this way: If a man is sufficiently able to discharge the duties of a second class clerk, which are very little different from the duties of a first class clerk, he is quite competent to become a first class clerk.

50,135. Is not that assuming that all of them are equally competent to discharge the duties of a first class clerk?—Yes, I suppose it is.

50,136. Is that likely to be the case?—I should say so.

50,137. That they are all equally fitted to discharge the duties of a first class clerk?—I think so.

50,138. (*Mr. Coward.*) You may get a man who is a disappointing man, and who when you have selected him is not good, and you would like to *chasser* him, and certainly you would not like to promote him?—Yes.

50,139. (*Chairman.*) Does not that ever occur?—I have no doubt it has occurred.

50,140. And it might occur in future?—I think it probably would.

50,141. In that case, would you promote him nevertheless?—There are lots of disappointments; when you put a man into an official position, he may be very good in his non-official position, but when he gets to the official position he is sometimes a failure.

50,142. Would you nevertheless promote him when he has reached a place of seniority?—Certainly not, I should not promote him.

50,143. So that you do not carry your views so far as to say that it should be solely and entirely by seniority?—No. I think you must have regard to the ability of a man to judge whether he is fit for promotion, and those above him would have to exercise that discretion.

50,144. Turning now to the question of the arrangement of the business in the offices, do you find that it is satisfactory?—I do not think it is.

50,145. Will you tell us the points on which you find it unsatisfactory?—As the business is at present conducted, we have masters, taxing masters, and registrars of the Chancery Division. I think the business would be better conducted if they were all amalgamated, that is to say, you would have more masters, but you would not want so many as you have got now collectively. I think there are some twelve masters, nine registrars, and eleven taxing masters, including Master Macnamara, who is on the Railway Commission, but who is also a taxing master. You would not want the whole of those gentlemen if you had a system by which the master who took the initiation of the business—that is, beginning with the writ and summons for directions—followed it to a conclusion.

50,146. That is the system at present in force in the Bankruptcy Department?—In the Companies (Winding-up).

50,147. Do you find that it works satisfactorily there?—I think it works very well there.

50,148. Taking first the question of taxation, I understand that the principal reason which brought about the creation of a Central Taxing Office was that it was found that when the taxing was done in the different offices considerable divergences of standard and practice arose, with the result that certain portions of the Court were preferred on account of their greater leniency in taxation, and that those inequalities and divergences were intended to be removed, and were successfully removed by the creation of the Central Taxing Office?—Yes.

50,149. Do you attach importance to those considerations?—No, I cannot say that I do.

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Mr. FREDERICK CAUNT.

[Continued.]

50,150. Do not you think that if the taxing offices were separated again and attached to the different divisions, similar inequalities might arise?—I do not think so. According to my view, if you have sufficient staff by way of masters and clerks to conduct the business from A to Z—that is everything, the taxing, the drawing of orders, and carrying the whole matter through—you get rid of the inconvenience of an order being made by one master and drawn up by a registrar.

50,151. I will come to the registrars directly. I was dealing for the moment with the taxation question?—Almost the same principle applies to taxation. You get an order made for taxation of costs which have involved probably an enormous amount of work before a master in all its details. Then you go to the taxing master, who is entirely fresh to the whole thing; he has to gain his knowledge from a perusal of the papers. My view is, that the work would be much better done if the master who has done the business also taxed the costs.

50,152. Do you find, apart from the question of duplication of work, that the work is not satisfactorily done at present in the Taxing Office?—I think it is satisfactorily done.

50,153. Do you find practical inconvenience from the duplication of the work?—I think there is some inconvenience, certainly.

50,154. In the way of delay or additional attendances in the Court?—In the way of unnecessary waste of time.

50,155. (*Mr. Coward.*) Of judicial time?—Of judicial time.

50,156. (*Chairman.*) In a taxation, in the first place the bill has to be scrutinised and checked as to the items?—Yes.

50,157. That would have to be done whether the work was done in the master's office or in the taxing master's office?—I quite agree.

50,158. Then you come to the important items which are matters of discretion?—Yes, questions of principle.

50,159. Is it your point there that the taxing master has to go into the documents in the case in a way that would not be necessary for the master who has dealt with the case to go into them?—That is my personal view, certainly.

50,160. Does that going into the documents mean a prolonged investigation of the details of the case?—Sometimes; and long arguments.

50,161. Would those arguments be entirely avoided if the taxing was done by the master, although the master might be familiar with the case?—I would not say entirely avoided, but very much minimised.

50,162. On the other hand, might not delays be caused by the fact that the master who had to tax a case had a good deal of other business to attend to, because taxing was not his only function?—You would have more masters, so that there would be a more equal distribution of the work.

50,163. Do you consider that by increasing the number of masters you could avoid any occasion for delay of that kind?—I think so, certainly.

50,164. And you do not consider that inequalities of practice would arise?—I do not think so.

50,165. How would you avoid them. They were found to arise in the past?—Of course, there would have to be special arrangements made. Probably there would have to be still maintained a taxing master, or taxing masters, for dealing with what I should call exclusive business, such as under the Lands Clauses Consolidation Act and under the Solicitors Act, probably.

50,166. That is to say, taxations not arising out of litigation?—Yes. That probably might have to be looked into and provided for.

50,167. But would that serve to keep the standard uniform as regards the contentious taxation?—I think so.

50,168. (*Lord Mersey.*) How?—Because you would separate the two.

50,169. That has nothing to do with it. How would you avoid the possible inequalities? The fact that you had a special man to tax bills under the Lands Clauses

Act, or whatever it may be, could not avoid inequalities in the taxation of the litigious bills?—I do not quite follow your lordship's reasoning.

50,170. (*Chairman.*) The point is this: In the old times when the taxation of each division was done by officers in that division, it was found that considerable inequalities arose between the practice in the different parts of the court. Those inequalities have been removed by placing the taxation on a body of masters who do that work for the whole of the courts, with certain exceptions, and who take it in rotation?—Yes.

50,171. If you restored the old system of taxation in the different divisions of the Court, you would then have the taxing done by a number of persons who do not form one body, and do not rotate on the work; and *prima facie* it would appear that the same tendency to inequality of practice between different parts of the Court would arise. How do you suggest that that tendency would be counteracted or avoided?—As I understand the question you differentiate between the King's Bench and the Chancery Division.

50,172. And also between the different groups in the Chancery Division?—That is the Companies (Wind-ing-up) and Lunacy.

50,173. And also between the three groups, each of which has a group of masters attached to it?—I cannot see that there would be any inequality.

50,174. Taking the Chancery Division alone you have the three groups of linked judges. Each of those groups has four masters attached to it. The four masters attached to the first group would do the whole of the taxation in that group, and the four masters attached to the second group would do the whole of the taxation in that group. How would you secure that the first group of masters and the second group of masters should apply the same standards and methods of taxation?—I cannot say that they would, any more than the same methods are applied now where you have the 11 taxing masters.

50,175. The 11 taxing masters take the work in rotation and not according to the group of judges. They also have frequent meetings for comparison and discussion of methods; but the complete rotation is the principal means of securing absolute equality?—That is in the distribution of the work.

50,176. Taxing master A does not take the whole of the work coming from the first group of Chancery judges or solely Chancery work, but takes the work in rotation as it comes, and in that way you secure equality of treatment both between King's Bench and Chancery work, and also between the different groups in Chancery?—Yes.

50,177. If you sub-divided the work again I do not see what security you have that the inequalities which were found in the past would not arise again?—I am afraid I cannot offer any further opinion upon that. It seems to me that if the costs are taxed by the masters of the judges, there would not, in my view, be any inequality, although there is no rotation of work.

50,178. (*Lord Mersey.*) Is it not a fact that in days gone by solicitors liked particular courts in which to practise because they knew that their costs would be favourably taxed?—I know that in days gone by solicitors liked to get their cases in the Chancery Division before particular judges.

50,179. Why?—For the better dispatch of business and—

50,180. I am waiting for what comes after the "and"?—It did not affect the remuneration.

50,181. Did it affect the taxation?—Not at all, in my opinion.

50,182. Are you sure?—Yes.

50,183. Were not there some masters who were more indulgent towards solicitors than others?—I suppose that is natural. I think there were, and I suppose there are now.

50,184. (*Chairman.*) Passing now to the question of the registrars, you suggest that similar inconvenience arises in their case from the fact that an order is drawn up in a different office from that in which the case has been dealt with up to that point?—Yes.

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50,185. Do you find practical inconvenience arising from that?—Yes. There is a lot of explanation required that otherwise would not be necessary.

50,186. In dealing with the Registrars Office, you have an appointment with a registrar for settling an order?—Yes.

50,187. Do you habitually attend those appointments, or does your principal attend them?—My junior clerk generally attends, but if there is anything of a complicated order I attend myself.

50,188. When your junior clerk attends, does he see the registrar or one of the registrar's clerks?—He would sometimes see the registrar and sometimes the order is settled by the clerk, or the draft order is altered in pencil and signed by the respective solicitors, and then goes before the registrar for his approval.

50,189. Do you find that inconvenience arises from the fact that the case has to be explained and gone into afresh by a fresh set of officers?—That is my view.

50,190. It has been suggested to us by some witnesses that the Chancery orders are of so difficult and complicated a nature that it is absolutely necessary to have officers who devote themselves entirely to the work of drawing them up. Do you think that that is so?—I do not entirely agree with that. I agree that some of the orders are very complicated, and must be settled before an official who is able to deal with them, such as a registrar or a master.

50,191. (*Mr. Coward.*) Who settles the minutes in the first place in those cases?—When the papers are left in the registrar's office, the registrar's principal clerk pencils out the order.

50,192. Are not the minutes in those cases usually prepared by counsel?—In complicated cases, yes.

50,193. (*Chairman.*) When minutes have been prepared by counsel, does the form of the order follow the minutes closely?—Very closely. There is hardly any departure from it except to put in the evidence.

50,194. When minutes are drawn, are there often modifications of form in order to comply with the pay office regulations or other rules?—Yes, that frequently happens.

50,195. It is the business of the registrar and his officers to look after points like that?—Certainly.

50,196. Are those points so difficult and technical that a master who is doing the general work of his office at the same time would be unable to deal with them?—I think not.

50,197. You think he would be able to deal with them?—I think he would.

50,198. You think there would be considerable advantage in the dispatch of business in having that part of the work dealt with by the same persons as have dealt with the proceedings in the case up to that point?—Certainly.

50,199. Do you see any advantages in the present separate offices which would be lost if they were amalgamated?—I think there would be advantage in amalgamating the registrars with the masters—a distinct advantage.

50,200. And nothing important lost by amalgamation?—I think not.

50,201. The registrars at present attend in court in a good many cases?—They do.

50,202. Do you think that necessary?—I do not.

50,203. What do they do in court?—They call the case on the list; they administer the oath to witnesses; they note any documents that are put in evidence, and they mark exhibits and documents put to the witnesses.

50,204. All that is work that could be done by a less eminent person than a registrar?—I think so.

50,205. Are they also consulted on questions of procedure by the Court?—Frequently.

50,206. Could that part of the work be done by one of their clerks?—I think so. If you take the Companies (Winding-up), the registrar when the office was first instituted sat in court with the judge—that is my recollection—but when Mr. Registrar Hood was appointed he ceased that practice, and the registrar has never sat in court with the judge since.

50,207. Has any practical inconvenience resulted?—I think not.

50,208. In any case, if it was necessary to consult a registrar on a point of procedure, he could be sent for?—Certainly, as a master is sent for now sometimes by a judge. I do not know whether it will help the Commission, but I may say that recently under the Trading with the Enemy Act it has been found convenient that all the business should be conducted before Mr. Justice Warrington. When the Act was first put in force all the Chancery judges dealt with cases under the Trading with the Enemy Act, but now there has been a direction by which Mr. Justice Warrington deals with them.

50,209. Does that affect the manner in which the work is dealt with in the office?—No.

50,210. The taxation is done in the Central Taxing Office, and the orders are drawn up in the Registrars Office?—Quite so.

50,211. So it does not bear directly on the point before us?—No, except that it brings about uniformity.

50,212. (*Mr. Coward.*) That is why it was directed. Cases which stood before other judges have been transferred for that reason?—Yes.

50,213. (*Chairman.*) That is a case of new business, raising new questions, where it was convenient for the sake of uniformity that they should be dealt with by one judge?—Quite so.

50,214. Have you any observations to make on the Companies (Winding-up) Department?—The only observation I wish to make on the Companies (Winding-up) Department is, that it seems to me to work very well indeed. I have had experience of it since its inception, and I think it works very well.

50,215. That being a new department has, perhaps, been less bound by rules and methods than the other departments which have been long in existence?—There may be something in that.

50,216. It has had perhaps rather a freer hand for framing its own procedure?—Yes.

50,217. Is it to that that you attribute its special efficiency?—No, I think the Companies (Winding-up) being in a department of its own, whereas it was formerly spread over the Chancery Division, works better and there is uniformity.

50,218. Do you attribute that entirely to the concentration of the work in one department?—To a great extent.

50,219. Or do you consider it is partly due to the fact that in forming a new department it was possible to disregard precedent more and to follow business-like lines?—In my view it is principally through having it in one department that it works so well.

50,220. Do you consider it works decidedly better than the other offices of the Court?—I do.

50,221. In what respect—in the greater dispatch of business?—It is quicker and more convenient.

50,222. And also more efficient?—I would not say that, but it is more convenient. An order when made by the judge or registrar is drawn up in the office in which it is made, and the whole thing works smoothly.

50,223. Do you get your orders quicker in that department?—I do not think you get them quicker.

50,224. We were told that in the Registrars Office such delay as there may be in obtaining orders is rather due to the fact that the solicitors are not ready with their part of the business than that the registrars are not ready with theirs. Do you agree with that?—Not altogether.

50,225. Do you sometimes find delay arising in the Registrars Office?—I have not experienced much delay in the Registrars Office. There is sometimes a little delay in getting appointments before the registrar, and that is in consequence of his being so much in court.

50,226. That difficulty would be removed if he had not to attend in court so constantly?—Certainly.

50,227. Do you consider that the staff is sufficient and not more than sufficient for the work?—I think the staff is adequate. I do not think the office is over-staffed on the present administration.

50,228. Not in any of the departments?—I do not think so.

50,229. The hours are not long?—I do not see very well how you could extend the hours. It would put solicitors, especially agency houses, in a very difficult

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position if you did, and if they had to remain down in chambers until 5 o'clock.

50,230. You are speaking now of the hours during which the offices are open to the practitioners?—Yes.

50,231. Is not there work, at any rate in some offices, which is done irrespective of the presence of practitioners?—I should not think there could be very much. There is a certain amount of detail work, such as drafting certificates and documents of that nature, which could be done when the practitioner is not there.

50,232. In the Chancery chambers is not a large portion of the work done without the presence of the practitioner?—A great deal of it.

50,233. Part of it consists in examining affidavits and documents, and getting information from them and drawing it up in the form of certificates?—Certainly.

50,234. All that is not dependent on the presence of the practitioner?—No, not until you come to the settlement of the documents.

50,235. Then in the Registrars Office the drafting of orders is done without the presence of the practitioner?—Certainly.

50,236. And the examination of the drafts by the registrar is done without the presence of the practitioner until it comes to final settlement of the draft?—Quite so.

50,237. All that work is not dependent on the presence of the practitioner?—No.

50,238. So if the hours were somewhat lengthened that could be done in the part of the day when the practitioners were not present without inconveniencing the practitioners?—That would be so.

50,239. In the Taxing Office is not a certain amount of the work done without the presence of practitioners?—There must be an enormous lot.

50,240. So that could be done after the hours that the office is open to the public?—I should say myself, that if the clerk is working from 10 in the morning till 4 in the afternoon it is quite long enough. I do not think he could usefully stay longer.

50,241. What are your office hours?—From half-past 9 to 6.

50,242. Why can you work 2½ hours longer than a clerk in one of the offices of the Courts?—We do have some variety. We have the walk down to the Courts and back again; we are not fixed in a room the whole time.

50,243. Are not the hours of your clerks often longer than that?—Some offices are open later. I do not say that our office is closed at 6; it is probably 7 or getting on for 7 when it closes.

50,244. After 4 o'clock you have your country correspondence and a good deal of other work to do?—Yes.

50,245. (*Lord Mersey.*) Surely you have several clerks in your office who do not leave their stools except for their dinners?—That is so.

50,246. How long do they work?—They work until 6.

50,247. At what time do they begin?—Between half-past 9 and 10.

50,248. (*Mr. Coward.*) Ten o'clock is a late hour to begin, is it not?—We are supposed to begin at half-past 9, but 10 is the usual time when we begin.

50,249. (*Lord Mersey.*) Do you keep an attendance-book?—No, we have never had one.

50,250. (*Chairman.*) As regards vacation work, do you find the arrangements as to that satisfactory?—I think it would be better to have two masters in attendance in the vacation.

50,251. Two masters in each division of the Court?—I am speaking of the Chancery Division.

50,252. At present, out of the 12 masters, how many attend during vacation?—One.

50,253. One out of the 12?—Yes.

50,254. That master deals with the work of all three groups?—That is so.

50,255. You think that two masters could usefully attend?—I should say that two would be better.

50,256. It has been suggested to us by one witness that a more liberal interpretation could with advantage be given of the term "vacation business." Do you agree with that?—I do to an extent. I think it should

be more liberally extended where payment of money is concerned,

50,257. Do you find that inconvenience is caused by the present interpretation of the term "vacation business"?—Sometimes, when money payment is dependent upon it, I think it ought to be relaxed.

50,258. In the other offices of the Court—the Taxing Office and the Registrars Office—does the work go on satisfactorily in vacations?—Taxations are practically stopped in vacations; unless there is an order made which requires the distribution of a fund in court, the bill would not be taxed.

50,259. Is the registrar's business practically stopped in vacations?—The registrar's business depends upon the work done by the vacation judge and the vacation master; he automatically follows.

50,260. (*Mr. Coward.*) In vacation it very often happens that if you have a big bill of costs you cannot get it taxed until the courts reopen in October?—That is so.

50,261. (*Chairman.*) Do you consider it would be desirable to have an age limit for retirement in the offices of the Court?—Not in my view.

50,262. Have you ever known a case in which an officer has continued at his work after his powers had begun to fail?—I think in all my experience I can only recall one such case.

50,263. Have you not known any such case in the Lunacy Department?—No. The case I am referring to was not in the Lunacy Department, it was in the Taxing Office. I remember a first class clerk in the Taxing Office who unfortunately through illness ought to have retired.

50,264. (*Lord Mersey.*) Would you go so far as to say that the older a man gets the better he gets?—I am inclined to that view.

50,265. (*Chairman.*) Do you place any limit to that process of improvement?—I remember going before a very old and very able man, a first class clerk, a man like the late Mr. Upjohn, who, I think, was father to the present King's Counsel. Then there was Mr. Biddle, another old gentleman, Mr. Williams, and Mr. Rogers.

50,266. Were they clerks or masters?—First class clerks, very able and very efficient men and very old men.

50,267. They remained until an advanced age?—They did.

50,268. And you found no diminution in their powers?—No.

50,269. (*Mr. Matheson.*) You are in favour of the appointment of clerks who have had experience in a solicitor's office?—Decidedly.

50,270. There are three classes of clerks at present employed in these offices?—Yes.

50,271. Is it your idea that clerks should come in in the third class and work up, or do you think that the duties of the third class are so mechanical that the third class should be treated as a separate self-contained class?—That is my view.

50,272. And that the second class should be filled direct from outside?—Yes.

50,273. You think the duties of the third class could be performed by what you may call the ordinary lower class Civil Service clerk?—I should say so.

50,274. (*Sir John Kempe.*) With regard to the question just put to you, I do not understand you to exclude altogether the idea of recruiting the public offices through the third class, but you think it would be better to recruit direct to the second and first?—Yes, I do.

50,275. That is because they would get the advantage of a technical training?—Quite so.

50,276. You admit that there are advantages in recruiting through the third class, and in having the third class in an office, because on an emergency you can call upon men to do things in the second class, especially in small offices?—Yes.

50,277. Would not you lose that altogether if you recruited directly into the second class and had a third class of merely mechanical workers. At present the third class are not merely mechanical workers, but they would be more or less mechanical workers under your plan of having a separate third class?—I think that you

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would have to bring direct from the solicitors' offices the second and first class clerks, but you might get a man who would accept a third class clerkship if he thought he would thereby get promotion to a second class clerkship.

50,278. Then you think the fact of a man having some little legal training would compensate for not getting a higher average of men throughout the office, if you brought them into the third class by open competition?—Certainly.

50,279. You think the mere fact of their having technical knowledge counterbalances the higher education. Supposing you had your choice of recruiting your office from men who had some legal training and men of higher average mental intelligence, would you take the trained man?—I should take the trained man.

50,280. Do you think you would get, on the whole, as good men in that way?—I think so.

50,281. That is to say, they would more easily train up to be competent?—Yes.

50,282. Is not the reason that you prefer trained men rather than you get men who have been already tested, than that the technical training is of more advantage, and that if you take a man into the second class who has had 10 years' training in a solicitor's office, you are quite sure, or more sure, that he will not turn out badly. Is not that your main reason?—That is one reason, but it is a question of qualification. The man who has had the training, in my view, is the qualified man for the position.

50,283. The man has had the training and has been tested and has proved that he is a good man?—Yes.

50,284. Of course, you are very particular about the man you choose. Naturally you get the very best man?—Certainly.

50,285. Do you know the taxing masters' offices?—Very well.

50,286. How would you deal with an office of that sort where there is one first class clerk, one second class clerk, and one third class clerk?—A taxing master has two clerks.

50,287. One a third class clerk and one a second class or first class clerk. How would you deal with an office like that if you have for a third class clerk a man doing the mechanical work?—My experience in the Taxing Office is that the first class clerk and the junior clerk, whatever his grade is—I am not sure which it is—both do skilled work. That is my experience as the office is at present constituted.

50,288. At present the third class clerk is selected from a solicitor's office?—He is.

50,289. And, therefore, he is much older than the age at which a man would come in by open competition?—Certainly.

50,290. Is not that a great disadvantage?—I think in the Taxing Office it is an advantage.

50,291. Is it not a disadvantage, because when a man comes in at 30 or more, he gets discontented, as he cannot serve his time out?—There is something in that.

50,292. There are several reasons why recruiting into the third class would be preferable in some cases?—In some cases it would. If you take the Taxing Office as an illustration, the first class clerk and the junior clerk both do skilled work.

50,293. Do you know the Probate Office?—Not at all.

50,294. (*Mr. Coward.*) About how many clerks have you altogether in your office?—I should say now about 15 or 16. We are very much reduced on account of the war and other circumstances.

50,295. Have not you in your office clerks who have been in the lower grade, and have remained there all their lives, probably as long as you have been there?—Yes, we have.

50,296. And there they are quite content—at any rate, they do not emerge from that?—Quite right.

50,297. There are all sorts of duties to be performed that these people are satisfied to do, and they never try to emerge out of it?—That is so.

50,298. As I understand, your scheme would be to have the third class clerks in these Government offices, who would be appointed for that purpose, to do that

kind of work, just as you would have a messenger?—Yes, and remain so.

50,299. Then you would recruit into the first and second classes from outside?—Quite so.

50,300. You would obviously recruit from the staffs of solicitors?—I should, certainly.

50,301. Because you say they have had the experience of doing the work they will have to do in the offices?—Yes.

50,302. You were asked something about examinations. Would not the real test of their qualifications be the position they had attained in the offices from which they came?—That is the best test you can have.

50,303. If they were people who were high up, and who had had great experience, you would say, what better qualifications could you have than the knowledge that they had done that duty?—Exactly; and done it for a number of years.

50,304. One question about the drawing up of orders. It does take a considerable time to draw up an order?—Sometimes.

50,305–6. If an order were made to-day, you would find that there was some little delay in its being drawn up?—There is some delay, and I think it arises in consequence, as I say, of the registrars. In the olden times a registrar used to sit one day in court and one day in chambers all through the week. Now, the same registrar probably sits in court four days out of the six.

50,307. You cannot, of course, compare the Common Law orders with the Chancery orders?—You cannot; they are incomparable.

50,308. That is true; but you go with a Common Law order, get your summons endorsed by the judge, and draw up the order there and then and serve it that day?—That is so.

50,309. You cannot do that with the Chancery orders?—No.

50,310. I am going to suggest to you that it is because it goes through such a great number of hands that it takes far longer to do. It is true it is more complicated, but it does go through a great many more hands, and, consequently, takes far longer to do?—That is so.

50,311. We have heard, if my recollection serves me aright, that the masters take home work and their clerks take home work. Perhaps you cannot give us an opinion about that. You would not know whether they did or not. None of us can know, except from what they say?—I am told frequently by masters that they take home work.

50,312. If they do there would be no difficulty in extending the hours without their going through the additional burden of doing work out of hours. Their hours, we should say, are ridiculous?—Speaking for myself, I should say that they are short hours.

50,313. (*Lord Mersey.*) What are those hours you are talking about?—Ten to four.

50,314. I thought you said just now that that was quite long enough?—I think it is for the work they do.

50,315. Have you ever heard of a leading question? Beware of that?—Yes.

50,316. (*Mr. Graham Wallas.*) At what time in the morning is it customary for solicitors and solicitors' clerks to go to the master's office?—Eleven o'clock.

50,317. Not before 11?—No.

50,318. So when you say "as regards the staff the attendance is regular, I do not find any difficulty or delay in obtaining appointments in chambers," you are referring to the regularity of attendance from 11 onwards?—That is my only knowledge.

50,319. If there is any irregularity of attendance before 11 you would not know of it?—I should not know of it.

50,320. In answer to a question which might be called, perhaps, "leading," you said a solicitor's clerk ought to be appointed to a Government office according to his place in the original office, as that was sufficient indication of his qualifications for appointment to a Government office?—I take it that Mr. Coward's question was directed to the efficiency of the man who

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was to be appointed—the test of his efficiency—and I agreed that a proper test would be that he had filled a position in an office for so many years.

50,321. In a great solicitor's office, if there are two men of the age of 30, one of whom is the son of the

senior partner and the other is not, and has perhaps entered as junior clerk at 15, do you think that the fact that the son of the senior partner occupied a higher position in the office would be proof absolute that he was the abler man?—No.

Mr. JAMES MELLOR PAULTON (Assistant Paymaster-General of the Supreme Court), accompanied by Mr. HENRY SELLAR (Principal Clerk), called and examined.

50,322. (*Chairman.*) You are Assistant Paymaster-General of the Supreme Court?—Yes.

50,323. How long have you held that office?—I was appointed at the end of 1909.

50,324. What had been your previous experience before appointment?—I had been 25 years in Parliament. I had been connected as private secretary with various Government Departments, and I had acquired a considerable knowledge of Parliamentary work, and also of the work of Government Departments.

50,325. You were not in the public service except so far as you had served as private secretary?—No.

50,326. The history of your office goes back to the year 1726?—Yes.

50,327. At that time an Accountant-General was appointed by an Act of that year to look after the funds in court?—Yes.

50,328. At that time the expenses of the court were paid, I think, out of the proceeds of the fees and interest on the funds in its hands?—That is so.

50,329. When the great reforms of the Judicature came about towards the year 1870, considerable changes were made?—Yes.

50,330. The effect of those changes was that the expenses of the courts were charged upon the Exchequer, that the funds in court were taken over by the Exchequer, and that the Exchequer assumed liability for all payments to be made out of those funds. Was that the general effect of the changes?—Broadly speaking, that is so.

50,331. In 1872 the Accountant-General's office was abolished and the funds were transferred to the Paymaster-General?—Yes.

50,332. Finally, when the Supreme Court was consolidated into its present form the Paymaster was appointed accounting officer for the whole of the courts?—Yes. Perhaps I should mention that nominally the Paymaster-General was appointed for the purposes you have just mentioned, but of course he was empowered by the Act to depute all duties concerning the Supreme Court of Judicature to the Assistant Paymaster-General and his deputy. The term "Paymaster-General" is possibly a little misleading, because the Paymaster-General in Whitehall really holds a nominal office.

50,333. Each Paymaster-General executes a deputation transferring the whole of his duties as regards the Supreme Court to an assistant?—Quite so.

50,334. As regards the work of the Supreme Court the authority of the Paymaster-General is purely nominal, and it is entirely transferred to the Assistant and Deputy-Assistant Paymaster-General?—Yes.

50,335. Generally, what is the nature of the work of the Pay Office?—The Pay Office is, I think you will understand, not a legal department. It is the accounting department of the Supreme Court dealing with money and securities of the court as directed. The work in the department consists in dealing with the receipt of funds, lodgment and transfer of securities, investment of money, payment of interest, liquidation and distribution of capital, conversions, payments off, funding of interest, and various financial transactions of that kind.

50,336. That is work relating to the funds in court?—Yes.

50,337. There is another entirely distinct branch of the work relating to the payment of salaries, and so on, of the Supreme Court, and accounting for that expenditure for Parliamentary purposes?—Yes, that is the work of the Assistant Paymaster-General as accounting officer for the Supreme Court Vote.

50,338. That is an entirely distinct branch of work from the work of dealing with the funds in court?—Yes.

50,339. The funds in court amount to a large sum in all?—In round figures they now amount to nearly 50 millions sterling.

50,340. Are those funds mainly invested?—Those funds are practically all invested. In case the information should be of use I have copies here of the Parliamentary account showing that the securities invested are 46,200,000*l.*

50,341. Of which, I suppose, a very large proportion is in Government securities?—A constantly diminishing quantity. Now the amount of Government securities only amounts to about 20,000,000*l.* It was very much larger, but of late years the tendency has been to invest in what we call odd stocks; that is to say, securities other than Government securities.

50,342. I see there are about twenty and a half millions of Consols alone?—Yes.

50,343. I suppose there are other Government securities as well?—There are other Government securities; but for practical purposes we may really resolve Government securities, in my case, into Consols.

50,344. You have a considerable amount of Indian Government securities—some eight or nine millions?—Yes; of India three per cent. stock some 3,000,000*l.*, and of India three and a half per cent. 5,000,000*l.*

50,345. The remainder of the funds are distributed over a large number of securities of every sort and kind?—An enormously increasing number of securities. It is, perhaps, rather interesting to mention that in 1884, when practically the office was just commencing, the number of different securities held was 460; it is now considerably over 2,000.

50,346. The work of the office includes the drawing of the dividends and interest, and other operations connected with all these securities?—Yes; not only a very large number of operations, but growing in complexity in consequence of the increasing investment in these various securities.

50,347. It would, in fact, I suppose, be similar to the work which a bank does as regards securities lodged in its custody by a client?—I should think it is very analogous indeed.

50,348. Supposing, for instance, an opportunity is given to the holder of one of those securities of subscribing to a fresh issue, would you deal with that in the interest of the fund and take it up, or not take it up?—Yes; but, of course, you will understand it would be done by direction of the Court. I undertake no operations except under directions of the Court. I have no discretionary power to deal with suitors' funds at all.

50,349. (*Mr. Coward.*) One of the parties would have to move about that. The Assistant Paymaster-General would not intervene, or have anything to do with it; he would not tell the people there was a right to subscribe or anything; they must find out for themselves?—No. For instance, in the case of allotment letters they are received by me, and I use those for the benefit of the holders of the securities concerned.

50,350. You do not mean allotment letters, do you?—Yes, I mean allotment letters—new stock.

50,351. You mean offers?—Yes, offers. That is a matter of initiative in the Pay Office. Where a conversion is concerned, of course, I refer at once to the beneficiary—the holder of the stock or his representative. An immense amount of my securities are held under the Masters in Lunacy, and in cases of conversion where an option is exercisable, I refer that option to the beneficiary.

50,352. (*Chairman.*) In the case of an offer of a new issue where there is an option of taking it up or not, would you refer that to the master for instructions?—In lunacy cases, primarily, to the parties responsible—to the committee or to the solicitors—but, generally

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speaking, I think I may say that in that case I receive a general order from the Masters in Lunacy, if the offer is an advantageous one, to deal with all the accounts.

50,353. Take the case of a new issue which is offered on advantageous terms, such new issues as have been made by the Canadian Pacific in the past. Funds are required to take it up; you have to subscribe for new stock. Surely a general authority would not authorise you to take up new stock without referring in a particular case?—No, I was only referring to conversions—the exchange of one security for another.

50,354. Take the case I have put. I want to arrive at what your procedure is. You receive a notice from the Canadian Pacific Company of an issue of that kind; there is a holding in the name of some person in the court, and there is an opportunity of taking up the new issue. To whom would you refer that? You would not act on your own discretion?—If that offer is an advantageous one; if the rights, so to speak, can be sold, my procedure is to obtain it for the beneficiaries. That is really the case of the allotment letters which I was speaking of.

50,355. Would you sell the rights without consulting anybody?—I think, informally, we consult the solicitors to know what their view is. If the solicitors representing the parties raised any objection, I think I should probably exercise my discretion in the negative. I am very anxious to give you the information you seek.

50,356. My point is this: Where there is a discretion to be exercised, is it part of your business to exercise that for the persons concerned, or to put the matter before the persons concerned and act upon the opinion which they express, or, if it is a matter requiring to be decided by the Court, do you act on the decision of the Court?—(Mr. Sellar.) May I explain? Rule 110 of the Supreme Court Funds Rules tells the Paymaster-General to sell all allotment letters and rights of that kind. If our Supreme Court broker tells us that a right is valuable and saleable, and we find that we can realise anything, we sell it, and credit the suitors' accounts with the proceeds.

50,357. (Mr. Coward.) Without telling anybody?—It depends on the circumstances. We have no money by which we can subscribe for an issue of new stock, we cannot take up any new stock, we have no funds with which to do it.

50,358. (Chairman.) Take the case where the right to subscribe is a right that can be sold, do you sell it on your own initiative without reference to anybody?—Yes, under the rule. (Mr. Paulton.) Under the rule I sell that right.

50,359. Without giving the person interested the option of subscribing if he wishes to?—I do not think that that option is really exerciseable by him without an Order of the Court. With the delay involved I do not think it would be practicable. Probably the right would have expired before he could have obtained the authority of the Court to deal with it. (Mr. Sellar.) The right is exercised by the Paymaster-General in respect of his total holding of the stock, and it may be spread over 40 or 50 accounts. (Mr. Paulton.) I recently had cases in which, I think, there were some 200 distributions of a fractional amount.

50,360. Taking a case of that kind, would you exercise discretion for the whole of the stock held by you in a lump without referring to the individual parties interested in parts of it?—Yes, I think, broadly speaking, that may be so. In every case I inform the representatives of the person whose account is concerned.

50,361. (To Mr. Sellar.) You referred to Rule 110. Is not the answer to my question contained in that rule which prescribes that all such rights should be sold?—Yes.

50,362. Under that rule there is no question of offering the option of subscribing to the persons interested?—No question of option to subscribe. They come in various forms; sometimes we get a direct allotment of stock, which must be immediately sold under the rule; another time we may be told by the broker: "This stock will have certain rights; if you subscribe, 'the rights will be worth something,' and we sell if we get an actual allotment from the company.

50,363. (To Mr. Paulton.) If it takes a form where there is a right which can be actually sold under the rule, you have to sell it?—Yes.

50,364. In that case there is no discretion to exercise?—That is practically so.

50,365. Speaking generally, is it right to say that in all cases you act under instructions and do not exercise discretion in matters of this kind?—Yes.

50,366. Looking at the return, I see, besides securities, you have a certain number of actual objects, packets, and boxes to take charge of?—Yes.

50,367. Some of those, I see, are of very ancient date?—Very.

50,368. Do you keep them indefinitely?—They are merely in my custody. I know nothing about them. I am like the manager of a bank with whom has been deposited boxes or bundles of securities.

50,369. Is there no provision for disposing of them after a certain lapse of time?—No.

50,370. I see, for instance, you have a "bag of clipped money in *Jones v. Lloyd*, 20th August 1726." That is not likely to be claimed now by anyone. Will it remain indefinitely in the custody of your office?—There is not the least chance of that being claimed, I think.

50,371. Then it will remain indefinitely?—Indefinitely. I asked, as a favour, to be allowed to see it, but great difficulties were placed in the way, and it was regarded as so strange a request that I did not press it.

50,372. But is it not under your custody?—It is in the bank. Everything the bank has the bank is responsible for, and I am not permitted to examine.

50,373. In the case of funds, there is an arrangement for dealing with funds which are dead?—Dormant funds, yes. Those are dormant when they have not been dealt with for 15 years. I publish a list every three years of those funds. Perhaps I ought to put in a list—I shall be glad to do so—of the dormant funds. Roughly, they amount to about one and a half millions. The enormous majority of those funds are absolutely derelict. They cannot be claimed, and never will be claimed. They have been published for years and years unavailingly. The cost of taking them out would, in almost every instance, be far greater than the value of the fund, even if it were possible to trace a claimant. I may observe that I have, more than once, endeavoured to call attention to the desirability of releasing the Consols represented by these dormant funds, which can never be touched, which go on in my books accumulating interest year after year since the year 1726 for no one's benefit, and the taking over of which by the Treasury, it seems to me, would be a very desirable operation.

50,374. Is it not the case that those funds are, as a matter of fact, taken over by the Treasury, the Treasury being responsible for finding the money if it is claimed?—That is so. The Treasury took over the responsibility for this in 1869.

50,375. So that the practical effect of your suggestion would be merely the clearing of your books?—Yes.

50,376. It would not make any difference to the application of the actual funds?—No, it would release a very considerable amount of Consols on a very dead market.

50,377. How is your office organised for dealing with these various matters?—The staff consists of principal clerks, first class, second class, and second division clerks, with seven assistant clerks. I had occasion soon after I was appointed to reorganise the system of work in the office because I considered it very unsatisfactory, to the extent to which I have referred in my précis of evidence. I do not know if you wish me to elaborate that in any way?

50,378. I think we need not go into that in much detail. Will you tell us what generally is the distribution of the work at present?—As amongst the different grades of the staff?

50,379. First of all as regards the divisions of the office in which the work is done. You have four divisions, I think, dealing with Chancery causes and Lunacy accounts divided into alphabetical departments?—Yes.

50,380. The fifth division deals with public works and bodies, causes in the King's Bench, Probate, Divorce,

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and Admiralty Divisions, and Judicial Trustee funds?—Yes.

50,381. What are the cases connected with public works and bodies with which you deal?—Those are very largely railway cases—purchases by railways of glebe land, and so on, the life interest in which is vested in the incumbent. Those are the majority of the cases. (*Mr. Sellar.*) They represent the proceeds of land compulsorily acquired under Acts of Parliament.

50,382. Proceeds deposited in court pending allotment to persons ultimately entitled?—No, it is where there is continuous interest, either by a rector or incumbent or trustees or a tenant for life, and disability to sell. The money is paid into court and invested, and the beneficiary gets the income. (*Mr. Paulton.*) They are nearly all cases of incumbents of livings.

50,383. You have also a department dealing with the vote for the Supreme Court?—Yes; that is quite a separate department.

50,384. Another department is the Central Division dealing with general correspondence and operations connected with exchange or purchase of securities?—Yes.

50,385. And, finally, there is an Accounts Branch?—Yes, that deals with the consolidated accounts of the whole department.

50,386. Are the other departments not practically accounts branches?—No. All their work is centred in the Accounts Branch.

50,387. Taking the branches which deal with Chancery accounts, do not they keep the books and suitors' accounts?—(*Mr. Sellar.*) They only deal with suitors' accounts, and all their accounts are focussed in the one room and entered as totals; it is a summarising department, really.

50,388. How are your principal clerks distributed amongst those departments?—(*Mr. Paulton.*) There is a principal clerk to each of the four Chancery Divisions. The fifth division is in charge of a first class clerk.

50,389. Are the three other departments in charge of a first class clerk?—They are in charge of second class clerks.

50,390. Where are the other first class clerks employed?—There are only five first class clerks, one first class clerk under a principal in each of the four Chancery Divisions, and one is in charge of the fifth division. Each principal has under him one first class clerk and one second class clerk.

50,391. I suppose the three other divisions, the Vote, the Central Division, and the Accounts Branch, are more directly under the supervision of yourself and your deputy?—I think it is correct to say that, broadly, they are more directly under us.

50,392. What work do the second division clerks do?—*Mr. Sellar's* great experience of the work and his knowledge would probably enable him to condense the matter more than I should be able to do. (*Mr. Sellar.*) I can give you the statistics of my own division.

50,393. (*To Mr. Sellar.*) Will you tell us what the work done by the second division clerk is?—Mainly book-keeping work.

50,394. I suppose a large amount of the work is book-keeping work?—Naturally. In my room I have 6,000 suitors' accounts, having balances aggregating 288,000*l.* cash and about 10,000,000*l.* stock. That is roughly one quarter of the funds in court.

50,395. In your division there is one principal clerk, one first class clerk, one second class clerk, six second division clerks, and one assistant clerk?—Yes.

50,396. Is it correct to say broadly that the second division clerks do book-keeping work, while the higher clerks do supervision of and deal with questions that require something higher than a second division clerk to decide them?—Yes. The first class clerk actually delivers out to suitors and to solicitors what we call "principal" cheques in payment of principal money. He delivers out directions for the issue of bonds, and also superintends instructions to the bank for transfer of securities.

50,397. When you say "delivers out cheques," are cheques largely given personally or are they sent by post?—A large number personally.

50,398. (*Mr. Coward.*) The majority?—A large number of people come for cheques.

50,399. (*Chairman.*) Are they suitors coming in person, or by their solicitors?—They come in person with solicitors and are identified by solicitors usually. Many of our annuitants prefer to come for their cheques. Although the postal system has been in force 30 years, still some prefer to come personally, but the great majority of the cheques, of course, are sent by post nowadays.

50,400. The post is much simpler?—Much simpler.

50,401. So far as you are concerned, do you prefer the post?—No, I think it is easier to deliver a cheque over the counter than to send it by post.

50,402. (*Mr. Coward.*) Did you say that cheques are sent by post?—Yes, thousands are so sent.

50,403. Under what circumstances?—Simply on the request of the payee.

50,404. Not always, are they? It is a question of amount?—(*Mr. Paulton.*) That has been so hitherto. Under a revision of the rules, I am glad to say, the limit will be abolished. I am not allowed at present to send by post a cheque for more than 1,000*l.*, which is very inconvenient.

50,405. (*Chairman.*) In ordinary commercial transactions is not the payment of money done almost entirely by post?—Yes.

50,406. Is there any reason why it should not be so in your office?—(*Mr. Sellar.*) We pay many cheques for costs to solicitors, and many of them prefer to run in and pick up their cheques.

50,407. (*Mr. Coward.*) Do they really?—I am sure they do.

50,408. (*Chairman.*) Why should they?—They are about the building, I suppose. Often one says to a solicitor's clerk: "You can have it on Form 25," and he says, "No, my principal will come for it."

50,409. (*Mr. Coward.*) It is the solicitor who has to go, and you will only deliver it to the solicitor himself if it is due to him; or if it is due to his client he has to have a power of attorney?—Yes.

50,410. So that you have all the trouble and expense of a power of attorney and compel the solicitor to go up and get the money as well. It is an unheard of thing?—(*Mr. Paulton.*) I have used my utmost endeavours to reduce the system of power of attorney to a minimum.

50,411. I am only asking about what is the practice to-day?—Yes.

50,412. (*Chairman.*) Is a revision of the Rules of Court applicable to the Pay Office in contemplation now?—I am glad to say that a revision undertaken last autumn has practically been sanctioned by the Treasury, and the revised rules will, I hope, very shortly be issued.

50,413. Does that include any extension of the powers of sending cheques by post?—Yes. That, for instance, is, I think, an important gain to the public. The various restrictions which have been imposed upon my office in dealing, if I may say so, in a business-like way with the public have become unnecessary, and I think under the revised rules the public will gain considerably in convenience, and in the removal of various irritating things.

50,414. (*Mr. Coward.*) If all these fetters are removed the public certainly will gain?—Unquestionably. It seems to me dreadful to find that an office, if I may venture to say so, like mine, should be regarded not as a pay office, but as a money box. My business is to pay out as expeditiously and cheaply as possible to the public what is due to them, and I have endeavoured to revise the rules in that spirit as far as possible.

50,415. (*Chairman.*) And the new revised rules will remove a considerable number of those restrictions?—I hope so. For instance, as to the troublesome provisions for the giving of evidence before money can be paid to annuitants and people of that kind, I have endeavoured, in this revision of rules, to treat payees in the same way as Queen Anne's Bounty and the Ecclesiastical Commissioners deal with them; that is to say,

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I want to be satisfied that I have sufficient proof that they are the proper people, and as far as possible—speaking very broadly—to remove the petty, and often very troublesome requirements imposed upon the public. I hope in the matter of evidence we shall give the public very considerably greater facilities under the revised rules.

50,416. (*To Mr. Sellar.*) To come back to the question of the work of the different classes, you have a certain number of assistant clerks?—Only one in each division at present.

50,417. What work do they do?—The assistant clerk keeps the register of payments, and assists with such work as copying transcripts, copying certificates, and drawing a certain number of cheques.

50,418. Practically copying work?—Largely copying work.

50,419. The cheques that he draws, I suppose, are drawn from schedules?—Drawn from what we call “models.” Many of our dividend payments run for years and years, and a model is made from which a cheque is drawn each quarter.

50,420. He has something which gives him the exact words he has to write on the cheque, and he has to copy that?—Yes, he has to copy it.

50,421. What is the method of appointment at present to the different posts in the office? By whom are the appointments made?—(*Mr. Paulton.*) By the Civil Service Commissioners in the ordinary course, and mine is a Civil Service Department.

50,422. Yes, but somebody has to appoint. In the first place, taking yourself, who appointed you?—The Assistant Paymaster and the Deputy Paymaster are appointed by the Treasury. That appointment has always been kept in the hands of the Treasury specifically, as I think is mentioned in the Spring-Rice Memorandum. It has been, and, as he says, must be retained by the Treasury on account of the responsibility which the Assistant Paymaster holds on behalf of the Treasury towards the suitors' funds. The Deputy Paymaster is in practically the same position.

50,423. Both these appointments are made by the Treasury?—Yes, those two appointments are made by selection.

50,424. Is the staff of the office considered eligible for promotion to these posts?—It has never been held that these two posts were to be regarded as open to the staff. I see no absolute bar to the holding of those posts by promotion, but I do not think the Treasury would be willing to assent to it—certainly not as a matter of right, and hardly as a practice.

50,425. In the past has any appointment to one of those two posts been made from among the staff?—(*Mr. Sellar.*) Mr. Lewis was appointed Assistant Paymaster, and Mr. Sharpe was appointed from the office to be Deputy Paymaster. In 1884, when there were great changes in the office, the Treasury introduced the first outsider to the post of Deputy Paymaster. The changes were then thought to be so important that they sent their own accountant, Mr. Skinner.

50,426. Mr. Skinner came from the Treasury?—Yes, he was a Treasury accountant.

50,427. And his successor was Mr. Lewis, who was appointed from the staff of the office?—Mr. Lewis was a principal clerk in the office.

50,428. I see, when Mr. Skinner was appointed Deputy Paymaster, Sir George Kellner was appointed Assistant Paymaster-General. Where did he come from?—He was Accountant-General in the India Office.

50,429. Mr. Lewis, in 1892, was promoted to be Assistant Paymaster-General, and Mr. Rowe was appointed deputy. Where did he come from?—He came from the Central Conservative Association.

50,430. He had not been in the public service before?—Not at all.

50,431. In 1900 Mr. Rowe was appointed to be Assistant Paymaster-General and Mr. Sharp was appointed deputy?—Mr. Sharp was appointed from the office. In 1884 the Treasury distinctly laid it down that they hoped in future to fill that post from the office.

50,432. (*To Mr. Paulton.*) Did you succeed Mr. Rowe?—Yes, in 1909.

50,433. Then Mr. Longley had been appointed deputy before that time?—Yes, in 1905.

50,434. What was Mr. Longley's previous experience?—He was Private Secretary at the Home Office from 1895 to 1902. Then Assistant Private Secretary at the Treasury; Secretary to two Royal Commissions, and Private Secretary at the Privy Council Office.

50,435. Mr. Longley had had previous experience in the public service?—Yes.

50,436. But not in the Pay Office?—Not in the Pay Office.

50,437. I gather that your own previous experience had not included service in an office of accountants or an office of a financial character?—No.

50,438. In fact, you had not had experience connected with accounting work or financial work of the nature that the office deals with?—That is true.

50,439. Can you say whether Mr. Longley's previous work had been of a financial nature or connected with accounts?—I think I can say not, and that, in that respect, his record would be much the same as mine.

50,440. As regards the other classes in the office, are the first and second class filled by promotion from the second division?—Yes.

50,441. From the second division clerks in the office itself, or from second division clerks generally?—We have had very few, if any, introductions from outside. The promotions to the second class during my time have been entirely from the existing second division.

50,442. From members of the second division working in this office?—Yes.

50,443. In theory, is it open to selection from the second division anywhere?—In theory, yes.

50,444. But in practice it is confined to the second division working in the office?—Yes.

50,445. By whom are the promotions made?—By myself; or, in case of my absence, by Mr. Longley. It is by personal selection by the paymaster on the governing consideration of merit.

50,446. You make promotions on your own authority without reference to the Treasury?—My recommendations are sent in to the Treasury for confirmation.

50,447. They have to be confirmed by the Treasury?—Yes.

50,448. Has promotion proceeded generally by seniority, or have you departed largely from seniority?—I may say that the principle upon which I myself have acted has been that, where merit is equal, seniority should determine; but that seniority should not prevail over merit.

50,449. I suppose the point at which selection would chiefly come in would be in the selection of the second division clerks who are to be promoted to the second class?—Yes. I think the same remark would apply to promotion to the first class from the second, and that is an even more responsible duty.

50,450. In selecting for promotion to the second class, have you, as a matter of fact, departed largely from the order of seniority?—Yes; I am afraid I have been obliged to do that to a certain extent or even to a considerable extent.

50,451. In considering seniority amongst the second division clerks, do you take the date of appointment to the public service or the date of promotion to the higher grade as determining seniority?—I think the date of appointment.

50,452. Are there any second division clerks at present who are senior to any of the clerks in the second class?—There are four.

50,453. The four clerks to whom you refer were appointed in the months from February to July 1881?—Yes.

50,454. And the three junior clerks at present in the second class were appointed in July 1881?—Yes. (*Mr. Sellar.*) A great many men entered the office about that time.

50,455. So the difference of seniority in that case is a difference of two or three months, and, in some cases, days?—(*Mr. Paulton.*) Yes.

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50,456. Practically, they are of the same seniority?—Yes.

50,457. Apart from that slight difference in seniority, promotions have been made in order of seniority?—Yes.

50,458. The second division clerks are sent to you from the Civil Service Commission?—Yes.

50,459. Have you any voice in saying who shall be sent you?—No.

50,460. You take those who come?—Yes.

50,461. I presume you have a power of rejection if they are not found satisfactory?—I think so; but I may say that since my appointment we have not had many second division clerks appointed by the Commissioners.

50,462. You have never had occasion to exercise that power of rejection?—No.

50,463. Do you find the present system satisfactory?—Satisfactory.

50,464. Do the second division clerks do the work they have to do in a satisfactory manner?—Indeed they do their work, if I may say so, in an admirable manner. Their work merges very largely on a considerable portion of the work of the second class clerk. It is almost impossible to draw a close dividing line between the work of the second division and the second class in my office; the work is so intermingled, as it were. The zeal with which the second division clerks have worked is, I think, very remarkable when one reflects that under the peculiar circumstances of the Pay Office most of these men have been practically debarred from any hope of promotion.

50,465. What peculiar circumstances do you mean?—When I went to the Pay Office I found that promotion had practically been stagnant for 20 and almost 30 years, largely due to the fact that the old Accountant-General's men had remained in their posts, and they had considered, and had been allowed to consider, that they had a life interest in their posts. There were several men of 70 years of age who had been over 50 years in the department who declined to take their pension and to make way for the younger members of the office. It seemed to me to be a most terrible hardship. I had the greatest difficulty, if I may say so, in obtaining the active assent of the Treasury to my endeavours to remove them. I succeeded in doing so within a year or two, and promotion was, to a certain extent, accelerated; but I think I may say—and Mr. Sellar will correct me if I am wrong—that the main cause of the terrible state of stagnation in the Pay Office was due to the fact that the Accountant-General's men, a large number of whom were taken over when the Pay Office was constituted, remained at their posts, and were regarded as irremovable, with no time limit.

50,466. Are any of them remaining?—None remain now.

50,467. So that cause is removed?—Yes.

50,468. I see in the last five years, practically since your appointment to the office, there have been six promotions to the second class?—Yes.

50,469. Have you compared that rate of promotion for second division clerks with the rate of promotion which exists for second division clerks in any other offices of the Civil Service?—I cannot say I have.

50,470. Would not a comparison of that kind be necessary before pronouncing that there is an exceptional degree of stagnation in this office?—I do not think the rate of promotion that might have prevailed in the last four or five years can be taken as the average rate of promotion in the office, because, as I have just said, for so very many years there was really no promotion at all. I think if you take the average rate of promotion over a period of 25 years, or anything like that, you would find that the average rate of promotion in the Pay Office was immensely below.

50,471. What is the present rule as regards an age limit for retirement in the office?—The age limit is 60 years of age. I fixed that rule, I may say, by the universal desire of the members of the staff. There was no age limit for retirement when I came in.

50,472. Then in the next nine years there must be at least 17 vacancies in the higher classes?—Yes.

50,473. I see all the members of the principal clerks' class and the first and second class, are of the age of 51, or over?—Yes.

50,474. So that the rate of promotion in the coming years will be at least as rapid as it has been in the last five years; probably more rapid?—I think so.

50,475. That rate of promotion may be exceptional as compared with the past, but is not likely to be exceptional as compared with the immediate future?—Perhaps that is so; but the men now in the office, or the greater number of men in the second division, have no chance or hope whatever of promotion. They will be retired long before they can possibly expect or hope for any chance of promotion.

50,476. That arises, does it not, from the fact that a large number were appointed in the early days of the office upon its present footing?—Yes.

50,477. That is an accident which may arise in any office, and may produce an inequality in promotion at certain times; but before pronouncing that the second division are in a worse position in this office than they are elsewhere in the Service, would not it be necessary to compare the rate of promotion here with the rate of promotion for the second division in the Civil Service generally?—Yes; I think, perhaps, I should admit that, and I do not know why I should in the least hesitate to make the comparison; but I regret I did not realise the necessity of doing it.

50,478. As regards the conditions of service generally, do the ordinary Civil Service rules apply as regards hours of attendance, leave, and so forth?—Yes.

50,479. You have a seven-hour day in this office?—Yes.

50,480. What are the hours in vacations?—Nominally the hours which the office is open to the public are reduced in the vacations. If the work of the office permits during the Long Vacation, the principal can allow his clerks to leave before the usual time, at 4 instead of 5; it is permitted when there is less work; but the permission is entirely subject to the exigencies of the division and the state of the work.

50,481. As a matter of fact, is the work much diminished in vacation?—I do not think very much. I find very little difference.

50,482. All the work connected with dividends goes on as usual?—(Mr. Sellar.) We should welcome the abolition of the Long Vacation.

50,483. Why?—Because towards the end of July and the beginning of August we are flooded with orders. The registrars and others upstairs are wanting to get away, and everything has to be done in a rush and hurry to assist them in doing so. During the first part of the Long Vacation we are working out those orders which come to us *en masse* at the beginning of August. September comes along, and we have the preparation of the October dividends. The bank books close on the 1st September. That month gives us a chance of taking the bulk of our leave, and we can spare two men to be on leave during that time, and the others have to work practically full time. There is not much advantage to the Pay Office in the Long Vacation.

50,484. Although the hours are nominally shorter?—The office is open to the public from 11 till 3—that is all.

50,485. Practically the clerks do not get the benefit of the shorter hours?—No.

50,486. (To Mr. Paulton.) We have heard in evidence, as regards the Chancery Division, that the Chancery orders are of a difficult and technical nature, and that the difficulty and technicality arise partly from the necessity of complying with the rules that govern the Pay Office. Do you confirm that?—Yes. It is not the way I should put it: but I think that is the general result.

50,487. How would you put it?—The orders must be in a form which are workable by me according to my rules and practice. I have very little difficulty. It is very seldom, indeed, that any difficulty arises.

50,488. Are there many cases in which the order comes down in a form that does not comply with your rules and practice?—Very seldom, because in any exceptional case a solicitor would be sure to come and

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consult my officers or myself before drawing a difficult or exceptional direction in an order.

50,489. Whose business would it be, when an order comes, to say: "This does not comply with the requirements of the Pay Office"—would it be the duty of a first class clerk, a second class clerk, or a second division clerk?—(Mr. Sellar.) The principal clerk. The orders go to the principal clerk every morning, and he has to supervise them to see if they are workable or not.

50,490. The principal clerk sees the orders before they go to the other clerks to act upon?—Yes. I had yesterday an order telling me to pay some interest which I had already paid under a previous order in 1911. I am told to pay interest which accrued up to a date in 1910, when a lady married. I have already paid that interest under an earlier order in 1911, and, therefore, the new order is wrong and must be amended.

50,491. That error is not an error of mere technicality but an error of fact?—It is an error of fact. The order might direct me to make a payment representing interest which accrued in that period, but I cannot pay interest twice over in separate orders.

50,492. Do you get orders where there are errors in them?—Those are the errors we get. Our difficulty lies in inducing the registrar to see the error, and we have great difficulty in getting a registrar to amend an order. It is almost like asking him to operate on himself. Sometimes they come to us, and say: "Will this do?" and we go through it with them. (Mr. Paulton.) We make every effort to avoid these difficulties, and solicitors understand that now, and come to us to consult us before any unusual direction is inserted in an order.

50,493. Speaking generally, have you any suggestions or observations to make on the working of the office and its organisation?—I would like, if I may be permitted, to make one reference to the assistant clerks, and to put before you my very strong view as to the special unsuitability of that class of clerk for the work which my office has to do. These lads are appointed; they have some difficulty in supporting themselves; their first desire is to be nearer their homes, if possible. I have lads sent to me from Ireland, Scotland, and so on, and they have to find their lodgings in London, which it is very difficult for them to do, and their one desire is to get away. At least a year is spent in giving them an elementary training in their duties, although those duties are quite simple clerical duties, and by that time a good many of them, perhaps, will have qualified for a second division examination. Their one desire is to go; out of 17 that I have had since I have been in the office, 10 have gone. Now their work has been entirely lost to the office, and they have occupied a great deal of time and attention. Mr. Sellar is specially disposed to train these boys and assist them in their work and give them a knowledge of their duties and encourage them, and he knows very well that the able ones, as soon as they have mastered the elements of the work of their seats, naturally are anxious to go out to improve themselves. I do not think it too much to say that the salaries paid to these boys is money wasted as far as the Pay Office is concerned. I really think it is a most extravagant system. I should also like you to notice that it is really in derogation of the efficiency of the staff, because the knowledge gained in those junior seats is essential to the clerks as they proceed up in the scale of promotion. That is my feeling.

50,494. You would rather have the work entirely done by second division clerks?—I feel sure that the money which is spent on the assistant clerks is wasted so far as my department is concerned. I do not think it is a sort of department in which that kind of labour can be usefully employed. Really it is not merely clerical work like, perhaps, the work in the War Office or the Admiralty, in which you can have rooms in which these boys can be employed in purely clerical copying work. That is not the case in the Pay Office. I regret very much to see the amount of zeal and labour which is spent upon these lads, whose first desire is to get another post.

50,495. Is there any other point on which you wish to make any observations?—I would very much like, if I might venture to do so, to draw attention to a point

which no doubt has been before the Commission, and that is as to the advisability of giving to the head of a department a very limited, no doubt, and strictly defined power of recommending for retirement as distinct from recommending for dismissal of an inefficient clerk. I will not labour the point if it is one which has been before the Commission, as I dare say it has, but it does seem to me extremely desirable that in the Civil Service there should be the kind of rule which prevails in a business house, that you must scrap your inefficient material.

50,496. Have you some cases in which you would apply that power if it existed?—Yes, indeed I have. They stand out, perhaps, particularly in the case of what I say most honestly is a most efficient staff. The few exceptions stand out so clearly that they have called my attention to this matter very much. There is inefficiency of two kinds. There is what I may call a moral and almost intentional inefficiency—laziness, indifference to discipline, and lack of desirable qualities. That is one kind that can be dealt with, as a rule, by disciplinary measures, although it is very difficult to do so, especially in the case where a man is always exercising a bad influence in the office. But then there is the much more difficult case of the physically inefficient man who is incompetent, not from lack of any good qualities, but because he is not able to really do his full measure of work; he has not got the gift of accuracy; his errors, wholly unintentional, cause great distress to himself and are a constant source of danger in an office like mine. After 20 years' service that man's services cannot be dispensed with, because it is a cruel thing to deprive him of his pension. You can only recommend him for dismissal on the ground of misconduct, which case does not arise; there is no suggestion of recommending him for dismissal, but there are many cases I am sure—there are a few within my own knowledge—where a man would willingly retire if retirement carried with it a proportionate pension for the years of service he had given.

50,497. Is there not any power of that kind at present?—I believe none whatever. I do not think, except on the ground of absolute loss of health, it is possible that a man can retire. I did my utmost last year to obtain the assent of the Treasury to the retirement of two clerks in my office who had each served more than 40 years, and who were anxious to retire in order to assist promotion in the office, but they had not reached the age of 60, and therefore they were not allowed to retire; but that is optional retirement, which is another matter altogether.

50,498. These were not cases of inefficiency?—No, far from it. It would have been a great loss to me if they should have retired.

50,499. Are you acquainted with the second section of the Superannuation Act of 1887, which gives power to grant a retiring allowance to persons removed on the ground of inefficiency?—But those provisions are very stringent.

50,500. It gives discretion to the Treasury to grant a retiring allowance to a person retired for inefficiency within the amount for which his length of service would qualify him?—I have always understood that that is practically a dead letter—that you must have so serious a suggestion against a man to induce his retirement that he practically will lose his pension.

50,501. In the cases that you spoke of, have you ever approached the Treasury with a view to the application of the second section of the Act of 1887?—I have several times, and at this moment I am in consultation with the Treasury about a difficult case; but the provisions of that section have never been put before me as a remedy for any individual difficulty that I have brought forward.

50,502. That section applies in the case where an individual is unable to discharge efficiently the duties of his office, so that it would appear to be possible under that section, if the Treasury in their discretion think it desirable, to meet the cases of inefficiency to which you have referred?—Granting that the existence of the inefficiency will not cause the individual to run the risk of being given no retiring allowance at all.

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That is a practical difficulty with which one is faced. I think you have to prove so strong a case.

50,503. (*Sir John Kempe.*) They reduce the pensions sometimes to fit the case, where the inefficiency is culpable. If a man is incompetent from drink, or anything of that kind, they can reduce the pension?—Yes.

50,504. I think, where it is not culpable, it is not the practice of the Treasury to reduce the pension?—I apologise for having introduced the topic without sufficient investigation into that particular section.

50,505. (*Mr. Graham Wallas.*) You were appointed in 1909?—Yes.

50,506. At that time you had been a Member of Parliament 24 years?—Yes.

50,507. Did you resign your membership before receiving the appointment?—It was just at the time of the General Election. I had notified my intention of not standing again. I remember that, but I forget the exact date of the Dissolution of Parliament.

50,508. But you received an effective promise of the post while you were a Member of Parliament?—No; I retired quite independently.

50,509. You were, at the time when you received notice that you would be appointed, a Member of Parliament?—My recollection is not quite sure as to the exact date of the Dissolution, whether I was actually in Parliament in 1909 or whether it had come to an end before I received my appointment.

50,510. But surely the matter was one of debate in Parliament at one time?—No.

50,511. Do you remember whether you were a Member of the House when you received an effective offer of this post?—I remember I received the offer on the 21st December 1909, and I do not think the General Election was proclaimed until early in 1910. I must have been still in the House.

50,512. You were then at the age of 51?—Yes, I think so.

50,513. Do you remember whether you were appointed by direct action of the Crown or under Section 4 of the Act of 1859, or how?—I really could not tell you.

50,514. Is your office pensionable?—Yes.

50,515. Were years added to your service at the time you were appointed?—I believe not.

50,516. You only earn such pension as you earn by your actual years of service?—I believe so.

50,517. Is there any retiring age in your case?—I think it is at the discretion of the Treasury. The usual age would be 65, I imagine, at the discretion of the Treasury. I have never gone into the matter or made formal inquiry about it.

50,518. At the time when you received an effective offer of the appointment you were private secretary to one of the Ministers?—No.

50,519. That work had ceased?—I had not been private secretary for very many years.

50,520. To which Minister were you private secretary last?—I was at the Home Office with Mr. Asquith. That was my last private secretaryship.

50,521. I see you have a clerk put down as an assistant clerk named G. Gilchrist, whose age is given as 17?—Yes.

50,522. Is not he a boy clerk rather than an assistant clerk?—(*Mr. Sellar.*) He comes to us as an assistant clerk. (*Mr. Paulton.*) That is exactly one of the cases I had in mind. That boy's parents live in Scotland, and he is longing to get back to Scotland. He has very great difficulty in living on his salary in London.

50,523. You are probably aware that the whole system of boy clerks and assistant clerks has been proposed by this Commission to be swept away?—I am sorry that I am not as well acquainted as I ought to be with your interim reports. I intended to examine them yesterday, but was unavoidably prevented from doing so.

50,524. Have you any typing done in your office?—I am allowed specially now one typist. My type-writing clerk in the Central Division in the correspondence branch is a Naval Reserve man, and he has been captured and is interned in Holland, so I had to apply to the Treasury for a temporary typist.

50,525. Have you a woman typist?—Yes.

50,526. Would it be possible for most of the work now done by assistant clerks—the copying work, and so on—to be done by women typists?—No, I do not think it would be possible, because the work must be all done in the same room, and I do not think it would be physically possible to make suitable arrangements in my office.

50,527. There is a time-book in your office, I presume?—Yes.

50,528. It was given in evidence the other day that it was the custom in these departments to count any attendance up to 10.20 a.m. as being punctual attendance at 10. Do you know whether such a custom exists in your office?—The rule is very strict, and I am sure Mr. Sellar will corroborate me. There are a few cases in which, owing to actual physical difficulties, a man cannot catch a train, so that he must either arrive at a quarter past nine, and kick his heels about until the time of his attendance, or be, perhaps, 10 minutes late. I think, broadly speaking, in a few special cases, with my sanction, 10.15 is permitted.

50,529. But there is no general custom by which attendance up to 10.20 or 10.15 counts as punctual attendance?—I should certainly not consider so. (*Mr. Sellar.*) Our attendance is before 10 rather than after.

50,530. (*Sir John Kempe.*) (*To Mr. Sellar.*) Can you tell me if all of the clerks above the second division at the present moment have passed through the second division?—Yes, all except the two seniors, who were the old Class II. before 1876.

50,531. Are they old men?—No, but they came in in 1875 at the end of the old Class II. Prior to the Playfair Commission they were Class II.

50,532. Are they as good men as the second division?—I should say the same. It was the same examination.

50,533. (*To Mr. Paulton.*) I see in your précis of evidence you say that your clerks “have no legal training, but they must and do acquire by practice and experience a specialised knowledge of the work of the Supreme Court in all its departments, and are frequently consulted by the officials.” I suppose that is rather too broad a statement. It is only the financial side of it that they are consulted on; they are not consulted on legal points?—Yes. (*Mr. Sellar.*) Only on the financial bearings.

50,534. You say it is the rule in your office that every letter should be answered on the day of receipt. You do not mean that every letter can be completed?—(*Mr. Paulton.*) Mr. Sellar was for many years head of the correspondence branch, and will bear me out that, at any rate since I have been in the department, it is the rarest thing for a single letter to be held over until the following day, and then it is purely on account of physical inability to get the information, or something of that kind.

50,535. Then the cases, on the whole, must be small cases; because, if you had to make any investigation or inquiries to enable you to answer, you could not answer it on the day?—It is done by telephone or interview with solicitors. I insist on every effort being made to procure the information necessary to answer every letter on the day of receipt.

50,536. That is very satisfactory?—May I hand in a memorandum drawn up by my staff with regard to their position?

(*Chairman.*) You may hand it in. They might have sent it in themselves. Strictly speaking, it ought to have been sent in by the 1st of March, in accordance with the notice we have published.

ONE HUNDRED AND TWENTY-THIRD DAY.

Wednesday, 24th March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.
 Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.
 Sir DONALD MACALISTER, K.C.B.
 Sir JOHN ARROW KEMPE, K.C.B.
 Mr. JOHN ROBERT CLYNES, M.P.

Mr. CECIL COWARD.
 Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
 Mr. PHILIP SNOWDEN, M.P.
 Mr. GRAHAM WALLAS.
 Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

The Right Hon. EARL LOREBURN, G.C.M.G., called and examined.

50,537. (*Chairman*.) My lord, you held the office of Lord Chancellor from 1905 to 1912?—Yes.

50,538. In that office you were responsible for the control of the legal departments generally, and for appointments to a great number of legal posts?—There were some that were in other hands, but generally speaking that is right.

50,539. The Commission have had evidence as to the system of appointment to the legal offices which it will be convenient to recall. The Lord Chancellor has the appointment to the greater number, but in the Probate Division the President of the division appoints to all posts; the Lord Chief Justice and the Master of the Rolls have the right of appointment to certain posts, and the judges have the appointment, of course, of their own personal clerks, and also certain judges have the right of appointing clerks of assize?—That is so.

50,540. The Commission have decided that the judges, and also the County Court judges, are outside their reference. We would therefore ask you in dealing with the questions that come up to-day to treat them apart from the question of the judges and the County Court judges. The first point on which we should like to have your opinion is on the question of the system of appointment—whether the present system is completely satisfactory, and, if not, whether any change should be made?—I believe that the present system has produced satisfactory appointments in the sense that the work is properly done. I have not heard many, if any, complaints about the way in which the work is done; but I do not like the present system of appointment, and I think it might be with advantage altered. As regards the Lord Chancellor, who has the responsibility for the appointments, he is a very very busy man, and I do not believe that any human being, with the different things he has to do, could possibly exercise the close personal supervision which, I think, ought to be applied to any department of the State in the way of making appointments. I do not think it is enough to say that the appointments on the whole are satisfactory and efficient—which I think they are on the whole—but I think it is also desirable that the system should not be such as to provoke discontent either among the people employed in the office or the public. For that reason, but not because of any inefficiency that has been brought to my notice, I should prefer that the whole of those appointments which do not partake of a judicial character should be in the hands of a Board or Committee—that is, all the offices in the gift of the Lord Chancellor, as well as those in the gift of the judges, other than what I call personal appointments.

50,541. You would exclude the judges' personal clerks?—Certainly. All the appointments of what I call a public character, I myself should desire to see placed in the hands of a Board or of a Committee.

50,542. Before going further into the question of the nature of the Board or Committee, could you tell us whether, in the exercise of the duty of appointment, you have found yourself exposed to pressure, or attempts at pressure, from outside, either of a personal

or political character?—Not very much of a personal character, and after a little time not very much of a political character; but for a period there was a good deal of what I would call political pressure attempted.

50,543. That applied, I suppose, mainly to the more important appointments?—Entirely, I think, to the more important appointments; but I ought to say that I do not think it was so marked on the legal side as it was on other sides. I mean the legal appointments were less the subject of political solicitation than others.

50,544. In the case of the minor appointments, did you find that there was much in the nature of personal solicitation?—No, very little. I do not think, in regard to the minor appointments, there was much. The beginning is not an object of very great ambition; to begin at 100*l.* a year with a prospect of rising to 600*l.* a year when you are an old man is not very tempting, and I do not think those appointments are very much coveted; and besides that, promotions are practically by seniority, and therefore there is no trouble in regard to that.

50,545. Then, taking the question on the whole, you would suggest that the appointments should be in the hands of a Board?—I think so, or a Committee—I do not care what you call it.

50,546. What are your views as to the composition of such a committee?—I would take as a specimen the Central Office: I would have for that, in the first place, a representative of the Treasury, because he would be able to tell you whether economies might be effected, and whether it was necessary to fill up the place at all.

50,547. On that point is it not the case that before any post is filled up it is necessary that the vacancy should be reported to the Lord Chancellor, and that the Lord Chancellor and the Treasury should agree that the place ought to be filled up?—I do not think that is what I may call an effective working arrangement; because, having regard to all the different clerkships and so forth, you certainly do not reconsider each time whether a place is to be filled up.

50,548. We heard from Sir Kenneth Muir Mackenzie that notice had to be given and an interval of a month left before the appointment was made, in order that if any change was thought desirable the Lord Chancellor and the Treasury might have the opportunity of effecting such a change?—Very likely that is so, and I know there was constant communication between the Treasury and the permanent secretary, and he would bring to the Lord Chancellor's notice anything of importance which occurred. I mean Sir Kenneth Muir Mackenzie is absolutely the most economical and reliable person in matters of appointment that you can have, and he would in my time bring to my notice anything that was communicated to him; but, of course, in the ordinary way he would say, "Well, there is no room for economy," or "There is room for economy," and would treat it rather as a matter of routine unless something arose which required notice.

50,549. You think if the Treasury were actually represented on the Committee of Appointment, that

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would bring them into closer and more direct touch with the system of appointments?—I think, from the point of view of economy, it would be a most excellent provision, because the Treasury representative would then be closely in touch with the whole of the offices and with the system.

50,550. Besides the Treasury would you suggest that the Civil Service Commission should be represented upon the committee?—Yes, I think so, certainly, because they know all about the qualifications that are required.

50,551. And would you suggest that the department to which the appointment was to be made should be represented by the head of that department?—I should not object to that, and, indeed, in one sense, it would be most desirable, because the heads of the departments in this country, I believe, are very trustworthy men; in fact, they are among the best men in the country. The only thing I feel about that is, that it might rather tend to leave the future of the whole of the staff, numbering in some cases hundreds, largely in the hands of one man, and I have a sort of feeling that compartments which are too tight are a mistake.

50,552. You are speaking now of the question of promotion after a man has entered the office?—Yes, that is what I am thinking about. For the first appointment it would be desirable in the last degree that the heads of departments should be represented, and, I think, one might very fairly be on such committee.

50,553. At present are not promotions made largely upon the recommendation of the head of the department?—I have no doubt that is so, but promotion goes automatically mostly, does it not?

50,554. My doubt was whether the head of the department, as one member of a committee of four or five, would have a greater power of control over the destinies of the men in his department than he has at present when the promotions are made largely or solely upon his recommendation?—Very likely you are right. I have not had the practical experience of being the head of a department, and therefore your opinion is much more valuable than mine on a subject of that kind.

50,555. In any case you would assent to the view that the head of the department ought to be represented on the committee, at any rate, for the purpose of the first appointments?—I should not make any difficulty about that. I should quite accept that.

50,556. That is to say, in the case of the Central Office, for example, the senior master, I presume?—Yes.

50,557. On that point I should like to ask a question which is a little beside the main question we are considering. The senior master at present becomes senior master by lapse of time; he is actually the senior of the masters for the time being. The suggestion has been made in the course of evidence given, that there might be advantage if the post of senior master were one to which the appointment was made by selection and not purely by seniority. If additional functions were given to the post, that might strengthen the argument for a system of that kind. What would be your lordship's view on that point?—If you look at a privately-managed business you will find that the employer selects the best men. Of course there are prizes in a professional calling of that kind, and there are not so many prizes in the Civil Service, which is not highly paid. The ideal is, of course, to get the best man for the work, and I think I should like to have rather more liberty of selection and not quite so rigid a rule for promotion by seniority, provided that you get an unimpeachable authority who really can attend to it and knows what is going on himself, which, I venture to observe, is quite impossible by the Lord Chancellor. I have not counted the number of departments for which he is responsible and the number of persons employed in them, but anything like the idea of personal supervision in the promotion of the clerks is really, in practice, out of the question with a man who has got so many other things to do. Therefore I should like to see selection exercised—of course with due care—by people who would

be able to master the whole of the departments, and who would be sensible Englishmen, and would never think of putting one man over another man's head without a real reason. That is what I should like to see.

50,558. Would you apply that principle to the selection of one of the masters for the post of senior master?—Yes, I think I would.

50,559. To go back to the question of the committee or the board, you have spoken now of a representative of the Treasury, a representative of the Civil Service Commission, and a representative of the department concerned. Would you suggest that the Lord Chancellor should be represented by his Permanent Secretary?—Yes, upon the whole I think I would. Although I do not want to impart a too official character to the committee, still I think he must always have great experience and knowledge, and I should like, if he is placed on a committee of that kind, that it should be understood that he is there as, in the present instance, Sir Kenneth Muir Mackenzie, and not there as the Permanent Secretary. Sir Kenneth, for example, has an office of his own—the Crown Office—with which the Lord Chancellor has nothing whatever to do; it is his own affair altogether. Although he is also the Permanent Secretary he is an independent person so far as the Crown Office is concerned, I think. I should like to see him in the same status if he goes upon this committee.

50,560. Then would you suggest any outside element as well as the official elements of which you have spoken?—Yes. I should like to see also a solicitor of the highest standing and experience. I think he would bring in a very useful element, because these offices mostly deal with what is called "practice" more or less, and I think an experienced solicitor of high standing who would be in a position to snap his fingers at all the world, so to speak, if necessary, would be a very useful man. You would have to select him, of course, but there is an abundant number of people who would be quite able to fill such a position.

50,561. The work of solicitors brings them much more into contact with the offices of the courts than the work of barristers does?—Certainly.

50,562. So it would be natural to have a solicitor rather than a barrister for that purpose?—A solicitor is also a man of business. A barrister may be, I hope, a man of business in a sense, but what we are concerned with at the Bar is not to deal with the business side of life so much as the forensic and legal side.

50,563. And also solicitors have the practice and experience of managing a considerable staff for office work, and barristers have not that particular experience?—That is very true, and it is a very important additional qualification.

50,564. That would make a committee of five—the Treasury, the Civil Service Commission, the department concerned, the Permanent Secretary to the Lord Chancellor, and a distinguished solicitor?—I should be content with that.

50,565. That, perhaps, would be large enough for the purpose?—I think so.

50,566. Is it your suggestion that that committee should make the appointment on its own authority, or recommend to the Lord Chancellor or to some other high authority?—I should like to see them make the appointments on their own responsibility, because I do not think it is desirable that the power should be in one place and the responsibility in another. I would prefer that if there was any single dissident among those five to any act that was done—and I do not think there would be often dissent—he should be at liberty to say, "Well, I disagree, and I would desire this matter to be laid before the Lord Chancellor for his decision." It would very seldom happen, but I think if, in regard to any appointment, things did come to that, it would be desirable that the Lord Chancellor should finally decide. Apart from that, I would give the responsibility where I gave the power, and the power where I gave the responsibility.

50,567. In that connection may I read to you one of Sir Kenneth Muir Mackenzie's statements to the Commission? He said, speaking of appointments to legal

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[Continued.]

offices, "I have always thought that nobody ought to have the power of appointment who is not responsible to Parliament. The judges, of all people in the world, are those who are not responsible to Parliament, because it is contrary, I believe, to the rules of the House of Commons that you should even discuss what a judge does." He was speaking there of the question as between the Lord Chancellor, who is a responsible Minister, and the judges, as appointing authorities; but the point I would put to you is, whether the view that he expressed there would have any influence on the question of making the committee the ultimate appointing authority. The committee would not be directly responsible to Parliament in the way that a Minister is. Do you consider that any objection to making the committee the actual appointing authority?—We are all responsible to Parliament, and I hope always shall be—everybody is responsible to Parliament. But there is a technical sense of responsibility to Parliament in the position of a Minister of the Crown being a member of the Government, and it means in effect that he and his colleagues may be hauled over the coals more readily and more easily in the House of Commons. It also means that he and his colleagues are theoretically, at all events—I will not say anything about the practice—more liable to what I call pressure in the lobbies of the House of Commons, or elsewhere, in regard to appointments. If the purpose is to keep men responsible in the sense that they may be brought to book if they do wrong you cannot have too much responsibility to Parliament. If it means that the patronage should be unnecessarily placed in the hands of those who are peculiarly accessible to party and political considerations, I think the less you trust appointments to people in that position the better. I do not know if that answers your question. I should contemplate that the Committee or Board would be responsible in the sense that they would be blamed by public opinion and by Parliament if they went wrong; but I think it is very desirable that they should be kept out of the political system. That is one of the things that I should like most to see.

50,568. I think that answers my question, but I should like to add to it this: What would be the practical way, supposing an appointment by the proposed Board was open to criticism, of bringing it under criticism in the House of Commons? If a Minister is responsible it can be brought under criticism by moving a reduction in his salary. What would be the corresponding method in the case of a Board of this kind?—There would be no corresponding method, because there would be no salary, I take it, and it would not come before the House of Commons in that way at all, but the House of Commons can interpose whenever they think anything wrong is being done. I think the real remedy would be that this committee is not a permanent body. I should say they would be appointed for 12 months, and reappointed at the end of the 12 months by somebody—preferably by the Lord Chancellor, I think—and, if there was a complaint made (which I imagine would really never happen) in regard to the method of appointment, the thing could be mentioned in Parliament, even in the form of a question, and he could properly inquire into it, and it could be seen if the complaint was well founded or not. You must trust somebody in a matter of this sort, and that, subject to the control and constant control of Parliament, would, I think, adequately provide for fulfilling the responsibility.

50,569. Then you would say that there are ample means of scrutinising the actions of such a Board in Parliament, without having the technical method of moving a reduction of the Minister's salary?—I think so. A question will do a great deal, especially if there is a method of going to some one in whom you repose confidence.

50,570. I suppose, without being technically responsible for their actions, the Lord Chancellor would be the Minister, as the Minister who appointed the Board, who would deal with any Parliamentary question coming up as regards their actions?—If there was any suggestion of anything wrong being done, of course he would ask about it and inquire about it, and satisfy himself as

to whether there had been a dereliction of duty. But these gentlemen would be independent men. In the same way with any office in the British Empire, if a man does not discharge his duty properly the Houses of Parliament can interfere. I do not think you can get anything more than that.

50,571. That suggests a question which was touched upon by Sir Kenneth Muir Mackenzie, and which I should like to raise now, though it is off the main line. Sir Kenneth Muir Mackenzie pointed out that there was no Minister in the House of Commons whose official duty it was to represent the Lord Chancellor and deal with questions that might be raised regarding the departments under the control of the Lord Chancellor. Is it your opinion that there would be advantage in having a Minister specially charged with that duty?—Most decidedly.

50,572. Have you found practical inconvenience from not having a Minister in that position?—There must always be an inconvenience, naturally. The Lord Chancellor is concerned in different Bills. In happy times, when there is more time available for Parliament to consider things, there are a number of small Bills which are opposed only by quite small vested interests, or opposed by people who have got theories or fancies, and the mischief of not being able to pass small Bills—Departmental Bills if you like to call them so—is very great. You cannot expect that, with the best will, your colleagues will associate themselves with your department; they have plenty to do with their own, and the result is, I think, apt to be, that if a legal Bill belonging to the Lord Chancellor's department comes forward, although he may have plenty of goodwill from his colleagues, they really have a great deal of their own work to do, and they are not familiar with his office, and, in fact, those Bills are apt to go among the innocents that are massacred at the end of a session. In the second place, I think it is desirable that, when any questions arise about the administration of the Lord Chancellor's office, of which there were certainly some in my time, he should have someone there who is known to represent him, and who would be able to put forward practically first hand, from knowledge of the interior, the real answer. As I say, I do not think the want of that direct representation can be compensated for by any degree of goodwill among his colleagues; they have their own business to attend to, and they are very hard-worked, most of them.

50,573. Going back to the question of the committee, to sum up your suggestion, it is this: A committee of five persons representing the Treasury, the Civil Service Commission, the head of the department concerned, the Permanent Secretary to the Lord Chancellor in his personal capacity, and an eminent solicitor?—Yes.

50,574. That committee would make all the appointments—other than those of judges and County Court judges, which the Commission are excluding from their consideration—which are at present made by the Lord Chancellor or any of the judges?—Yes.

50,575. And it would also deal with all questions of promotions in the legal departments?—Yes.

50,576. There would be an appeal to the Lord Chancellor on the motion of any one or more members of the committee?—Yes.

50,577. And in such cases the Lord Chancellor's decision would be binding?—Yes.

50,578. You suggest also that the Board should be appointed year by year?—Yes.

50,579. And its composition would vary to this extent, that for each different department to which an appointment was to be made, you would have a different representative?—Yes, or if the task is too heavy to deal what I may call intimately with each department, then you might have more Boards or Committees than one, but I do not anticipate that it would be so, and I think you would get willing assistance from the gentlemen of the class I have mentioned.

50,580. Turning more particularly to the question of the clerks in the offices as distinguished from the masters, registrars, and other high officers, the question has been raised whether the present system, under which in almost all the offices appointments are made in the

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first instance to the third class and to the higher classes by promotion from the third class, is the best, or whether it would be desirable to create a separate grade for the lower and more mechanical work without any prospect of rising, unless it were in very exceptional circumstances, beyond that grade, and to make direct appointments to the higher grades for the more important work. What is your opinion as to that suggestion?—I must preface what I say by this observation; of course, my knowledge, and necessarily so I think, of the actual work that is done in each of the offices is limited. Nobody could tell you more fully or better about that than Sir Kenneth Muir Mackenzie, who, I am sure, has the whole thing at his fingers' ends. My belief is that in some, at all events, of these departments there is a good deal of practically mechanical work, and there is an element of more important work requiring more education and capacity. The present system is, that you bring a man in—I will take again as a specimen the Central Office—at 100*l.* a year, and then the man who is appointed goes up practically by so much increase of salary each year, from the third class into the second class, and then into the first class. I am all in favour of keeping every place open to the best men, so as to encourage men to do their duty; but I should be disposed to draw a line and make two grades, in the first instance at all events, for those who do and are suited for the merely mechanical work, and for those who have more education and more capacity; and I would, I think, have the mechanical men rising to salaries proportionate to the kind of work they are really expected to do, and which they do all their lives, and the others rising to salaries proportionate to the kind of work that they have to do. That is what I should do, but always reserving the right, and, indeed bearing in mind the wisdom of making a perfectly open door from one grade to another grade, so that merit shall have its full reward. It comes to this, that you have the State employing a great number of people. Any private employer would have messengers, for instance, or clerks who are merely copying clerks, and at the same time he would have in his business other men from whom he would expect a much better paid kind of service; but if he was a wise man he would always have his eyes open and be vigilant to find the merit in the lower grade wherever it could be found by self-improvement, by self-education, and so forth, and by meritorious service, and be glad to encourage the whole office by promoting such when occasion arose. That is the sort of ideal that I should aim at, being conscious that ideals very often are not realised.

50,581. (*Mr. Coward.*) But he would have his eyes open outside as well as inside his office?—Certainly, I quite agree with that.

50,582. (*Chairman.*) You would recruit the lower grade on the supposition that normally they would not proceed beyond that grade, and you would aim at getting men who would be content not to go beyond that; but if there was a case of exceptional merit, where a man by personal qualities and education was suited to go to the higher grades, you would leave the door open for him to go?—Certainly.

50,583. Then for the higher grades you would recruit independently, and from the outside?—I would leave it to the committee to do so, always remembering that they have a double problem to solve. The first is to get the best men you can get to do the work of the State, and the second thing is to keep the whole staff, as far as you can, satisfied that they will be rewarded, and that their claims will be fully considered. It is impossible to lay down a formula under which you would act; good sense, fairplay, and goodwill would have to be employed, of course. But I would leave that part of discretion to such a body; and the wider the discretion that you leave to a body of men who have to appoint, the more desirable it is that the public should be completely satisfied that the men are independent and fair-minded, and representative of the best class of men you can get to exercise those functions.

50,584. On the other hand, if you are not to have discontent in the lower grade, would not it be important to have a definite understanding when the men

come in as to what their prospects of promotion are—whether the normal course of promotion is to be from that grade to the higher grade, or whether it is to be in exceptional cases?—I certainly should have it clearly understood. There are a number of people, and most excellent people, who discharge humble duties, as you might call them—for instance, the messengers, ushers, and people who look after things in the Royal Courts of Justice—but they are employed for that kind of purpose, and they are well paid; and I think those people ought to be well paid, so that they shall be thoroughly satisfied, and, I think, they do not expect to be made clerks.

50,585. The present system, under which a man who is ultimately destined to do work of a better and more intelligent kind is employed for the first 10 or 15 years of his service on purely mechanical work, is not satisfactory in that respect?—I do not think it is. You are mixing up two things—the mechanical work and the other work. I cannot say it is unsatisfactory in all senses, but the effect of it is that you do not get such a good class of man as I think you would get if you were to have two grades, because you mix up the duties which are partly mechanical and partly of a higher kind.

50,586. If that organisation were applied the question arises whether you would make the appointment purely a matter of selection by the committee or whether you would bring in examination in the method of selection. What is your opinion as to that?—It is quite certain that you must have examination for all those whom you employ for other than mechanical work. Competitive examination, of course, is one of those things the merits and demerits of which have been constantly disputed, and it is a very large subject; but I suppose the chief merit of competitive examination is that you say, "Well, there you are; you have passed the best examination, and we have no more to say." I am not at all sure that it necessarily follows that you get the best man, because you can examine a man effectually as regards his intellectual attainments, although even there I am not sure that the man with the best intellectual attainments always passes the best examination; but you cannot examine for the other qualifications which I would put under the general term "character." The ideal system would be the one under which you get the best and most competent and able man, and also a man whom you feel you can rely upon and who has the qualities which a mere intellectual education cannot give.

50,587. Were you speaking of the second class as it now exists, or the lower grade in the future?—I was thinking of the second class, but it would be better to speak of the upper grade to describe more accurately what I want to convey. In regard to that there is a question which ought to be borne in mind. For that kind of work, I believe that those who have had some legal experience already are decidedly useful, and yet they are taken largely from solicitors' clerks. These men, if they were chosen, would no doubt be excellent and good men who would do their duty, and so forth, and who have had experience, but then many of them have come quite young into a solicitor's office and had to do hard work while they were there; they have been taken away from education, unless it be continuation schools, and they have not had the same opportunities that others outside have had, and therefore, if they were to enter into competitive examination on general subjects of education with others of the same age who had had more advantages, they might be the better men to get from the point of view of the office, but at the same time they probably could not compete in any examination at all. For that reason, having *ex hypothesi* your trustworthy reliable Board, I should give them a fairly wide discretion to take in men, for example, of that class, always subject, of course, to a qualifying examination. I mean on the whole, on the legal side, I would not push competitive examination too far, for the reason that I have stated—for the benefit of the public service.

50,588. Taking the case of the lower grade, you point out that competitive examination does not

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necessarily test qualities of character. In the case of a young man of 18 or 19 coming into that grade, would a committee of selection be able effectually to test character by any other means?—They would see him, and they would hear about him. But what you are asking now is really about the way to choose people of the same kind as those you would employ as messengers, for instance—it really is very much the same thing.

50,589. They would be in rather a different class from that, would they not, because their work would be entirely of a clerical character; it would be dealing with legal papers, filing them, keeping books, keeping records, and so forth. It would be of a more distinctly clerical character than the work of a messenger?—As I said, I am not sufficiently familiar with the details of the work of the offices to be able to say, but there is a certain amount of almost purely mechanical work—stamping writs, for instance, may be a specimen. You would have to discriminate between the one class of work and the other. For example, in my experience of the work such as the work of messengers and work of that kind, I always gave about 90 per cent. or 80 per cent. at least to men who had got first class characters in the Army and the Navy. I remember once receiving from my friend Mr. Haldane a request to know whether I would give 50 per cent. of the appointments of that kind to men in the Army and the Navy, and I said that I would, if he wished it, but at present I gave them between 80 and 90 per cent.—which I think is the proper way. You get men of that stamp and that class. In that way you have the best means of knowing what stamp of man you are to get into your employment.

50,590. That is the case of men who in their previous service, if they have done well and shown good qualities, have already satisfied a test?—Yes.

50,591. My difficulty is rather this: In the case of young men at the beginning of their career who are entering the third class, while admitting that examination is an imperfect test of character, is scrutiny by a committee and a quarter of an hour's interview combined with testimonials any better test of character than selecting by examination a few out of a very large number of candidates?—You are putting a problem, and we are trying to meet the difficulty. The thing is a very difficult one at all times, and that it cannot be absolutely satisfactorily solved is very likely, but I am thinking of the best way to try and solve it. For example, I had better tell you the sort of thing I should do if I were on the committee: I should look to the Army and Navy for one class of work, and for the other work I should find out from great employers by asking about this man or that man, in regard to the way they have acted and done their work in the industry with which they were concerned. That is the sort of thing I mean.

50,592. That would hardly apply to young men quite at the beginning of their career—men coming straight from their education?—I do not know that you would necessarily take men of 18 or 19. I think I should prefer taking men at 22, 23, or 24, who had given some proof that they were trustworthy and good fellows; but that is, of course, confined to whatever may be the ambit of practically mechanical employment.

50,593. So on the whole you would prefer selection by a committee with a qualifying examination to any form of selection by competitive examination?—Not altogether. Are you speaking of the lower grade?

50,594. I understood your opinion to apply generally, but do you distinguish between the two grades?—I was thinking of the lower grade. For the upper grade I think it should be competitive examination with a considerable discretion to bring in from the outside those who had not been able, so to speak, to qualify themselves for success in a competitive examination in those particular offices.

50,595. That is to say, you would fill them sometimes by competitive examination in matters of general education, and sometimes by selection on the ground of actual legal experience in a solicitor's office or otherwise?—Yes, I was thinking of the legal experience, to acquire which a man disqualifies himself from being

able to compete successfully in an open examination. I was thinking of that for the upper grade.

50,596. And having acquired that experience he would probably have reached an age at which he is becoming less examinable?—I do not know what you consider an examinable age, but I suppose it is about 25 or 26.

50,597. That is about the age at which the Chief Civil Service Commissioner put it?—I suppose that is the limit of the examinable age, probably.

50,598. At present there is no fixed age for retirement, either in the case of the higher officers, such as masters or registrars, or in the case of the clerical staff. Are you in favour of fixing an age limit for retirement?—Yes. I think the Civil Service rule is satisfactory, which is, I believe, optional retirement at 60, compulsory retirement at 65, subject to a power to ask that the employee shall continue, and there is a final limit at 70.

50,599. That is so, and in the case of any prolongation after 65 a minute has to be laid on the table of the House stating the reason?—I should be disposed in legal offices, perhaps, a little to extend the last limit at the discretion of the committee, but upon that I am sure you would know better than I.

50,600. Would you apply those limits to the masters and registrars as well as to the clerical staff?—I think so.

50,601. A suggestion has been made by some witnesses that a somewhat higher limit is suitable in the case of the semi-judicial offices on the ground that in the first place a man is generally appointed to such a position later in life, and therefore has a shorter tenure, and, secondly, I think on the ground that the work being of a judicial character and not of a character which requires initiative, the necessary qualities of judgment and decision upon matters put before one do not diminish with age in the same way as qualities of initiative do?—I think myself that in regard to any judicial office, provided a man retains his health and faculties unimpaired, and is able to do his work, the older he is very often the better he is. But of course there is a limit to that like everything else. If I remember rightly there was a Commission with regard to the judges, on which Mr. Coward sat, and their recommendation was that the age should be 72, and that would be very good sense, it seems to me. I should say that probably for judicial offices it should be 72 years. In the case of semi-judicial offices, like masters, which are largely judicial, I think very likely you might treat them the same as the judges, and make the age 72, but I would like to have the power always in these quasi-judicial offices so that the person concerned might be asked to continue.

50,602. Turning to the question of organisation, we have had evidence about the Chancery chambers and the office of the Chancery registrars, and the question has come up whether those two offices ought not to be amalgamated. When your Lordship was Lord Chancellor you appointed a committee to examine into question of the Chancery registrars, and previous Commissions had reported on the same subject. The previous Commissions reported in favour of such amalgamation, but the majority of the committee which you appointed reported against it, though a minority reported in favour of it. The number of registrars has been reduced as the result of that committee but the offices still remain separate. Can you tell us what your opinion is on that point?—I thought myself that an amalgamation would be desirable. The committee that I appointed, I think, recommended a reduction in the number of registrars, and either I asked Parliament to do it and they consented, or else I did it off my own bat—I have forgotten which—but they were reduced from 12 to 8. I always think it is undesirable to multiply what I might call fissures between different departments. I think if the work is kindred work, the wider area you have of activity for each department the better it is for the public service. I believe, although not professing to have a very clear recollection on the subject, that all the different committees reported that it would be desirable to amalgamate the offices; but when I was speaking of amal-

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gamation and changes of this kind you will understand that in that case, as in others, one always must bear in mind the existence of existing interests of men who have been allowed to enter a professional calling with fixed prospects, and that you have no right, in my opinion, to disturb them without doing full justice to those who are in the offices already. But I think it would be desirable to amalgamate.

50,603. A somewhat similar question arose with regard to the different Lunacy departments. There is the department of the Masters in Lunacy and of the Chancery Visitors in Lunacy, and also the large separate department of what used to be the Lunacy Commission and is now called the Board of Control?—Yes.

50,604. As regards the Board of Control and its union with the two legal Lunacy departments, that question, perhaps, is prejudged by the fact that Parliament has recently legislated on the subject and has not effected an amalgamation; but the narrower question arises as to whether the offices of the Masters and the Visitors in Lunacy ought not to be brought into closer relation with one another and made part of the same organisation?—You mean the Masters and the Lord Chancellor's Visitors. I know nothing at all about the Board of Control, I have not followed what was done. In my time I was anxious to amalgamate the Lord Chancellor's Visitors and Masters who are one department with the Lunacy Commissioners as they existed at that time. I have forgotten the particulars, but I know Bills were brought in, and I think an Act was passed leaving out the character of Hamlet in the play of "Hamlet," that is leaving out the amalgamation. That, I think, was just at the end of my time. But your question is on quite a different point—the relation between the visitors and the masters. I do not think I had brought to my attention in my term of office any particular grievance in regard to that. If you will indicate to me what is the nature of the difficulty that has arisen I will do my best to answer you.

50,605. I do not know that the evidence that we have had goes so far as to say that an actual difficulty has arisen, but the point is this: The principal work of the visitors is obtaining information as to the condition and circumstances of lunatics on which the masters have to act. At present they are entirely independent of the masters; the masters make requests to them to visit certain lunatics, but as regards the whole organisation of their work and their office, and so forth, they are independent of the masters, and responsible only to the Lord Chancellor. The question was whether they ought not to be made part of the masters' organisation, and responsible to them as inspectors are generally responsible to the executive head. That was a point which was put to Master Theobald, and he expressed an opinion in favour of a change of that kind, and expressed the opinion also that if that were done it probably would be possible to modify the present system of visitors largely in the direction of decentralisation, and making it more local?—As regards the relation between the masters and visitors, I should like to go more closely into it before expressing an opinion, because it would depend upon what happened in the office; but as regards decentralisation, there are two things that I most wish in regard to that and other Lunacy departments. The first is decentralisation in order that there may be local supervision available without the necessity of getting someone from London; and the second is the employment of women in connection with the Lunacy system of the country—the large employment of women—because I cannot imagine anything more desirable than that those poor things should have someone of their own sex in authority to deal with. Those are the two things that I care most about in regard to that. So far as regards what you say that Master Theobald, who is a very high authority, thinks that there also ought to be some change in the relation with a view to decentralisation, I think, without going closely into it, he already having done so, it would be presumptuous on my part to express too confident an opinion; but the object of decentralisation is, to my mind, eminently desirable for the convenience of constant supervision.

50,606. (Mr. Philip Snowden.) Would you apply this Board of Selection to the appointments for purely

clerical work of a not very important character?—I think so.

50,607. What reason is there why, in the legal departments, you should depart from the very general practice of the Civil Service of appointing to clerical posts by means of open competition?—There is not any very strong ground at all. I did not realise that that was the practice in the Civil Service in general for purely clerical work; but if it is—and I have no doubt it works well or it would not have been continued—I should not make any difficulty about that.

50,608. It was suggested to you that there might be some re-organisation of the clerkships, and that there might be a lower grade and a higher grade, and the work of the lower grade would be of an inferior and not very important nature. Would you consider it to be necessary in the case of applicants for posts in the lower grade that they should have some experience in a solicitor's office?—You mean in the lower grade, the work of which is practically mechanical?

50,609. Yes, something, I take it, corresponding to the work of the third class clerk now?—I want to answer your question, but it assumes something which I am not quite sure I should assent to. The work of the third class clerk is mixed, is it not? The man who goes into the third class has to do the mechanical work, but he will also have a certain amount of other work to do, will he not?

50,610. I should think that he will do rather more important work than would be expected from the proposed lower grade, seeing that he is eligible for promotion to much more important work?—That conveys what I mean.

50,611. But assuming that the new lower grade was to be confined generally to doing work of a routine character, would you still consider it to be necessary that they should have had this legal experience?—I think in that case they would not require legal experience. I was thinking of the legal experience as rather appertaining to what one may call the upper grade, if it is right to call it upper and lower—I mean the more advanced grade.

50,612. Are you familiar with the system which obtains in some departments in regard to appointments to the Civil Service of what is known as limited competition; that is to say, that the applicants must furnish evidence of experience of the necessary kind, and then amongst those who have satisfied that preliminary condition there should be a competitive examination. How would that strike you as a suitable method for appointing to the proposed upper division, or something corresponding to the second or first class clerkships?—Of course, that brings up the whole question of competitive examination. Pray do not think that I am an enemy of competitive examination, because I think it solves your difficulty on one side of it; it puts an end to discontent; and it puts an end to favouritism, and, what is equally important, to the suspicion of unfairness and favouritism. It has all those merits, and I fully and frankly admit them, and probably it is the only solution; but, at the same time, if you ask me, I do not think, as I think I have already said, that you necessarily get the best men. I mean, in the subjects of examination a man may be master of all those things, and you do not necessarily get the best men. What one would like would be something like you have indicated—a sort of mixture in a way so as to leave a little freer hand to the authorities who appoint than requiring them to obey absolutely the result of the competitive examination.

50,613. Did I understand aright that you would give to this suggested committee the right to make promotions?—I think so.

50,614. Do you think they would have sufficient knowledge?—Always subject to existing interests; they would have to be regarded in that case also. You would have to remember that you had got men in on a particular footing, and would rather keep to that.

50,615. Supposing we take the case of promotion from, say, a second class to a first class clerkship: do you think that this committee, constituted as it would be wholly—apart from the head of the department—

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of men who had no practical knowledge of the working of the office and of the personnel of the staff, would be qualified to come to a decision as to who is the most suitable person to be promoted?—Yes, I think so. Whether they had the head of the department as a member, which I am quite prepared to assent to, or whether they consulted him, they would always be able to learn all about the office, and they would choose fairly, I think. You see what the alternative is: A public department is different from a private business; the best results are produced in a private business because a man can choose exactly whom he likes, and he has the motive of self-interest. You cannot have it the same way in a public department; but I should like to get rather near to it, if I could. I think they would be able to choose.

50,616. This committee of yours, of course, would not be a whole-time committee?—No.

50,617. They would meet occasionally when some appointment had to be made or some promotion considered?—Yes.

50,618. Part of this Royal Commission which inquired into the general Civil Service made a recommendation for the appointment of a department of the Treasury which would be composed of men who devoted all their time to the work, and their functions would be to become acquainted with the organisation and personnel of all the Government departments, and they should be the authority for determining promotions and suggesting reorganisation, and the like. This, of course, may come quite new to you, and you may therefore not be willing to express an opinion upon it at the moment?—I was not aware of it.

50,619. But how would that strike you as being a suitable body to deal with the legal departments also?—Of course I do not know the composition of the Board or Committee that you propose to appoint, and I have not heard of it before, and I do not know anything about it; but for legal business, remember, you are dealing with what one may call professional subjects rather. I do not know that the committee from the Treasury, which you suggest, would not do the work perfectly well; I quite believe that they would be independent and fair and all that, but they would not have legal experience. Now just see what the committee which I suggest has: It has the legal experience, in the first instance, of a solicitor; it has the legal experience of the permanent secretary of the Lord Chancellor; it has the legal experience of the head of the department—that is, three out of the five would have some sort of legal knowledge. Really if you are dealing with legal reforms of any kind, or legal business, it is very valuable to have some people who are familiar with legal business as they know the kind of thing that is wanted.

50,620. Who would you have to appoint this committee—the Lord Chancellor?—I suggested the Lord Chancellor.

50,621. Then would not the final responsibility in any case rest with him for the actions of this committee?—It seems to me not. He would appoint that committee and would be responsible for the appointment of the committee, but would not be responsible for what they did.

50,622. But is not the Prime Minister in the House of Commons responsible for the action of any committee which he appoints?—I should think not. If the Prime Minister appointed this Royal Commission, for instance, or other Royal Commissions, of one of which I am a member, or a committee, it would be rather hard on him to say that he was held responsible.

50,623. Technically the King appoints a Royal Commission, and therefore that might relieve the Prime Minister from responsibility?—No. I beg most respectfully to dissent from that. The responsible Minister alone is to be charged and to be hanged if necessary.

50,624. But in the case of a committee appointed, say, by the Home Secretary, the Home Secretary would be responsible to Parliament for the actions of that committee, or could be criticised?—I should think not.

(*Lord Mersey.*) I am not aware of that, but it may be true.

50,625. (*Mr. Philip Snowden.*) The question, at any rate, could be addressed to the Home Secretary in re-

gard to the actions of the committee?—Certainly, he would inform the House of what they had done, but he might say, "Heaven forbid that I should agree with "this view."

50,626. You quite admit the need for being able to raise in Parliament any questions about the actions of this committee; for instance, supposing they were charged with having been guilty of an abuse of patronage, there ought to be some means by which that question could be raised in Parliament?—Yes; and so it can, theoretically, and in the fullest constitutional sense. The only thing that one has to bear in mind in dealing with this question is, that the House of Commons has not got the time and has not got the opportunity to do many things which one might perhaps wish that they had the opportunity and time to do. That is a thing one cannot help.

50,627. But if the Lord Chancellor is responsible for the appointment of this committee annually, it seems to me that his must be the responsibility to Parliament; but the difficulty that I want to try to get over, and to see if you can assist me in any way upon, is how the matter could be raised in the House of Commons, seeing that the Lord Chancellor is not represented by any subordinate there?—You are touching upon a thing which, when I was in the House of Commons, for a long time had been a subject of complaint, and that is that the Lord Chancellor is the one Minister whose salary is not voted by the House of Commons as Lord Chancellor. My impression is that his salary as speaker of the House of Lords, which is a separate matter, is on the Votes, but I will not be sure about that. The consequence is that you cannot get at the Lord Chancellor easily in the House of Commons. It has been a complaint very often, but the reason is that after all the poor man is a judge, so the House of Commons can never get at a judge unless they move for a committee to inquire into his conduct, and then move an Address to the Crown to remove him. That is the peculiarity of any high judicial position.

50,628. I see a difficulty of raising any matter as to the action of this committee by means of a question in the House of Commons, but I see no difficulty in raising it on one of the Estimates, because the salary of the person who has been appointed to any post will appear upon the Estimate, and therefore it seems to me that it could be raised there?—It could be, if you had time.

50,629. But still, I quite agree with what you said, that it is very useful sometimes to raise these matters by means of questions, because you can do it without having to wait for an opportunity on the Estimates, which never may come. Therefore I would like to be satisfied before assenting to this proposal for the appointment of such a committee, that there would be some easy means by which they could be made responsible to the House of Commons, or the Lord Chancellor, as the person appointing them?—The whole purpose of what I suggested was to get a method of appointment under which people would not think that it was all in the hands of one man who could not attend to it, and that the private claims of members of the public were not sufficiently considered.

50,630. I was rather surprised to hear you say that there was not much competition for these minor appointments—I suppose you meant the third class clerkships?—What I said, I think, was that there had not been much or any political pressure that I knew of for appointments to these third class clerkships. I think there is a good deal of competition for them.

50,631. Have you always a very long waiting list?—I think so.

50,632. (*Mr. Graham Wallas.*) Have you noticed that a great many personal rights of patronage in the legal departments are protected by statute?—I know there are some. Do you mean protected by statute so that a particular person must appoint?

50,633. Yes?—Yes, there are.

50,634. In that respect the legal departments are entirely unlike the ordinary Civil Service, where regulations are made by Orders in Council?—The legal departments are different, as you say, in that respect. It used to be otherwise.

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50,635. The change you propose to us of the substitution of a committee for a number of high officers in making the appointments would involve, therefore, quite a considerable amount of legislation?—It would.

50,636. And that legislation would not have much chance of getting through the House, unless His Majesty's Government made a rather serious effort in that direction?—I should think it is very likely. I really do not know what effort would be required. I cannot gauge that.

50,637. You have told us that you did not find legislation with regard to legal reforms in your time easy—Hamlet was apt to be left out of the piece, you said?—It was on more than one occasion. That was really through the pressure of time. That is what it really came to.

50,638. Because of that a definite effort would be required to legislate?—I cannot measure the extent of the effort, but it would have to pass through the House of Commons and the House of Lords.

50,639. When it is done, do you think it would be better to fix it again by further statutes, or would it be better to make the new arrangements by Orders in Council, which can be modified under experience?—I should not mind, but you would require a statute empowering the Order in Council to be made. I think that might be a good way of doing it. Once you put it under an Order in Council, a reform of this character, if it be a reform, is more flexible; you can change it and improve upon it, learning by experience, and I think you might be quite sure that Orders in Council would be carried out in complete good faith.

50,640. Then you propose that the committee shall not deal with any offices which partake of a judicial character?—I do not think I said that. Take the office of Master, for example: that is an office of a *quasi* judicial character, largely judicial. I do not mean to exclude those offices.

50,641. Then I must have misunderstood you. You would include the registrarships and masterships in the offices, the appointments to which are regulated by this committee?—Yes, I would.

50,642. (*Chairman.*) I understood that the committee would apply to all offices except judges of the Supreme Court and County Court judges?—There may be some offices that I have overlooked, but, broadly speaking the answer is, yes.

50,643. (*Mr. Graham Wallas.*) But there would be excluded from the purview of this committee what you call the personal appointments by the judges?—Yes.

50,644. Then it would be necessary to make a perfectly definite list showing unmistakably what were those personal appointments?—I think it amounts to what used to be called and are still called body clerks.

50,645. Would you include the judge's marshal?—I certainly would not. Let me tell you what a judge's marshal is. A judge goes for six weeks, or it may be seven weeks, away on circuit, and he is alone unless there happen to be two judges. If he is married he does not take his wife with him, as a rule, and he is destitute of all the charms of domestic life. Whether it is right or whether it is wrong, he is allowed to pay 80*l.* a circuit—something like 10*l.* a week—to a young gentleman, who has to go and keep him company, talk to him, and walk with him, and all that. Surely you would not have competitive examination for that.

50,646. There are the judge's personal clerk and his marshal?—He takes with him his clerk and his marshal.

50,647. Is there anyone else besides the clerk and the marshal?—No, unless it is his wife.

50,648. She is not paid out of public funds, but the clerk and the marshal are so paid?—The clerk is paid 400*l.* a year. I never was one of the judges myself, but I think the marshal gets about 70*l.* each circuit, and then the thing is at an end.

50,649. But you are clear that the clerks of assize ought to be brought under the purview of this committee?—Certainly.

50,650. That would require another piece of legislation, as their appointment is also protected by statute?—That is so; by statute, I know, because I had occasion to look it up once.

50,651. You told us that the Lord Chancellor, in your experience, is an extremely busy man, who cannot know the details of the vast number of departments for which he is responsible at present?—I did not know them myself, or, at least, I have forgotten them.

50,652. Therefore your statement that, as far as you know, the work in all these departments is satisfactorily done, must be taken with the caution that we cannot ask you to know all the details of all the departments?—The caution is most necessary. If you knew the number of departments you would know that I cannot be expected to know, but I think you will find, if you ask any solicitor, or any person acquainted with it, that the work is fairly well done.

50,653. But if, for instance, there was a master in the Probate Registry who was past his work, the Lord Chancellor would not necessarily know that fact?—The Lord Chancellor has nothing to do with the Probate Registry, and has no jurisdiction over it. He certainly would spare himself from any such knowledge under these circumstances.

50,654. But it might happen that an official here, or an official there, was in fact past his work without it being anybody's business to call the attention of the Lord Chancellor to that fact?—It could not be anybody's business to call the Lord Chancellor's attention to it, because he has nothing to do with the Probate Department.

50,655. But what do you say with regard to other departments for which he is responsible?—Anybody might draw attention to anything of that kind if he liked.

50,656. In the Civil Service generally, by the Act of 1859, there is an express rule that no one is to be appointed to a pensionable office except on the certificate of the Civil Service Commission; that is to say, no one is to be appointed to a pensionable office unless he submits to some kind of medical inspection, to which he would have to submit if his life was going to be insured. But in the case of the legal offices a clause in the Act of 1879 states that the Lord Chancellor may from time to time, with the concurrence of the Treasury, revoke and alter orders declaring that this section shall not be applied to any office or class of office. Did you use that power yourself when you were Lord Chancellor?—I am sure I did not, because it has always been the rule. If an order was required, it was made by somebody before me. If it was so in the Civil Service generally, it has never been so in practice as regards judicial offices.

50,657. Would you agree that with regard to all appointments to pensionable offices, putting aside, of course, His Majesty's judges, it is to the interest of the State and no derogation to a man concerned that he should submit to a medical examination?—I have not thought about it. I do not see any objection. Perhaps the man might refuse, but I do not know.

50,658. We had before us the other day a very distinguished gentleman, who was Master in Lunacy, and who almost at once after his appointment—I think within a year after—unfortunately became stone blind. If he had been submitted to due certification before appointment he might have been warned that his eyesight was failing?—If the symptoms then were that his eyesight was likely to fail, he no doubt would have been warned. I am quite sure that the gentleman you refer to, as soon as his eyesight became an impediment to his work, sent in his resignation to me, and I declined to accept the resignation, because I thought it was in the public interest that it should not be accepted; and I may say that although it was my responsibility wholly, I remember receiving from one of the Lords Justices, who has the supervision of his work, a very urgent letter begging of me not to deprive the public of the value of his services, as he was a most valuable public servant. I should have refused to receive the resignation in any case.

50,659. A list has been made out for us of the appointments of the higher type made by your lordship?—I have not the least objection to such a list. I hope you have all the information you desire.

50,660. There was a request made that if any member of the Commission wished to ask about any particular

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appointment you might have notice of it?—I did make that request.

50,661. The list contains four appointments of masters in Chancery chambers, and I wish to ask you was Master R. T. Watkin Williams the son of a judge? —Yes, he was the son of a judge who died more than 30 years ago.

50,662. Was Master J. H. Chitty the son of a judge? —I have ascertained that he was the son of Lord Justice Chitty, who, I think, died 10 or 15 years ago.

50,663. Finally, the list contains the name of the secretary in one of the Lunacy departments—Mr. R. C. Reid. Is Mr. R. C. Reid a relation of yours?—He is; and will you let me tell you a little more? I have had my memory refreshed upon that. He is my nephew, and he was assistant private secretary to Lord Ripon until Lord Ripon's resignation of office or death, I forget which, and I might say that Lord Ripon employed him without knowing that he was my nephew. He did, I believe, very well. I then employed him myself as assistant private secretary at a time of pressure, and paid his salary myself. In 1912 a vacancy arose in the office of Secretary to the Visitors, because the Lunacy Commissioners had chosen Mr. Dickinson, who was then the visitors' secretary. I decided not to fill it up by any permanent appointment, because I was then engaged in amalgamating the Lunacy Commissioners and the Lord Chancellor's visitors, and I thought that I could effect this amalgamation very soon, and one secretary would do for the amalgamated departments. So I left it in the ordinary course to Sir Kenneth Muir Mackenzie to procure the necessary help for the Visitors' Department by employing someone to act as temporary secretary during the interval pending amalgamation. I was, of course, alone responsible, but temporary appointments are always managed by Sir Kenneth, and he afterwards told me he had employed Mr. Reid, and had arranged with the Treasury that he should be paid 25*l.* a month during his employment for the time. I quite approved of what Sir Kenneth had done. This was in January 1912, and in June 1912 I resigned the Great Seal, and I do not know what happened afterwards, except that the amalgamation was not proceeded with.

50,664. (*Mr. Coward.*) The problem with regard to the clerks in these offices is to obtain efficiency?—Of course.

50,665. The present system is to appoint a clerk to the third class, and you would say that it is quite immaterial what his qualifications are for that except for the fact that by gradual yearly steps he may get up to the head of the first class?—Yes.

50,666. Solely by seniority, and without any selection?—I should think it is practically that, although there is always a right of selection, I think.

50,667. Yes, there is a right of selection, but we have had it over and over again that it is practically never exercised?—Practically, you are right.

50,668. They never get rid of a man; he goes up gradually by yearly increments to his salary of 5*l.* or 10*l.*, or whatever it may be, irrespective of whether he has improved or has not, until he gets to the top; but then, curiously enough, he does not go any farther. He is not eligible for a mastership, and is never made a master?—That is so.

50,669. It seems very curious to me that that should be the course of procedure, that you should go up from the lowest, which would mean the office boy, until you get up to the first class, and then you are not eligible for a mastership?—There are criticisms at both ends about the system to be made. The first is, as you say, that a man goes in as a third class clerk at 100*l.* a year and goes up automatically, and the work is partly mechanical and partly of a more difficult kind. I tried to meet that difficulty by the suggestion I made about two grades, but I was not asked, and I ought to add, that I should allow these clerks, if they are suitable for the work, to go straight up to masterships, or any other office in their department. I do not approve of what you call impenetrable bars in a department. I think merit ought always to have its full swing, and that if a man has done well it would encourage the whole office

if he could reflect that he might get to the very top if he showed himself deserving. If an office boy came in in the first department under any system that you like to recommend for grading or otherwise, and was competent, I should like to see him go up to the second class and then to the first class, then to be made a master, and then to be made senior master if he is a suitable and proper person.

50,670. You may take it that all the men selected for the third class cannot, in the ordinary course of things, be competent people hereafter for the first class; as a rule, men have their limitations?—I quite agree. It is a question of limitations.

50,671. Therefore, if you find that the office is so managed that a man must by seniority get from the lowest to the highest, you cannot say that that is a good plan?—I quite agree.

50,672. (*Sir Donald MacAlister.*) That would point, would it not, to having definite efficiency bars at at least two points: First, at the head of the third class; a man recruited early with moderate qualifications for more or less mechanical duties would not pass out of the third class except he prove himself to be of unusual ability?—Except he prove himself to be a useful and proper appointment; but I should rather like to see him advanced. I would clear off all bars to begin with, and I would like, myself, to see him promoted if he had really done his work well in the third class, and was qualified for the second class.

50,673. For the second class we are told the qualification implies previous legal experience?—I do not think there is any legal qualification of that kind, but I think in practice—but here you must allow me to speak with some reserve, because I could not carry it all in my mind—the second class clerk, or rather the third class clerk, is very often taken from solicitors' offices, and then he goes up to the second class by seniority.

50,674. You would not agree with some of the witnesses who have given evidence to the Commission that experience for some years in a solicitor's office is a requirement for the higher second and first grades?—I should think it is very useful and desirable, but I should say that it is certainly not indispensable.

50,675. The experience that an able man in the third class acquires in the office might take the place of the experience acquired outside in a solicitor's office?—I think so.

50,676. It is also, I understand, for the higher ranks a requirement that professional legal experience should be previously had?—You mean for the masters?—Yes, I think the masters have always been so appointed.

50,677. It is a requirement?—I do not know whether it is a statutory requirement.

50,678. (*Mr. Philip Snowden.*) It is statutory—10 years' practice as a solicitor or barrister?—Very likely it is a statutory requirement, but I know it is the practice, perhaps in obedience to the statute.

50,679. (*Sir Donald MacAlister.*) So you see that at present such professional experience outside the office could not be acquired by one who is promoted from the third class?—Obviously. It is a bar, and I want to remove it.

50,680. That would involve your removing the qualification of previous legal experience as barrister or solicitor outside the office for appointment to the higher class?—To remove the disqualification of others; yes, I think it ought to be done.

50,681. Third class clerks would be recruited in the ordinary way up to the age of 22 or 24?—That sort of age; or you might go a little higher, perhaps. At present the limit is between 20 and 30 years.

50,682. Looking forward to the possibility of recruiting into the third class those who will afterwards be in the second or first class, or in masterships, would not that age of 30 be too high?—I do not know. You might make it 25, but I do not know that there is anything wrong in 30. I think it is preferable to have a rather younger man to begin with, but I do not think I would lower the age from 30. I would rather you consulted Sir Kenneth Muir Mackenzie about that.

50,683. What I had in my mind was what was suggested at previous sittings of the Commission, that a person who had had legal experience outside might be

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allowed to enter at a later age, and a person who had had no legal experience must enter before, say, 24. Would there be any fitness in that?—If in practice it turned out to be desirable I would reserve power to do that if you like. I do not see any objection to it. I would make the thing as flexible as you can.

50,684. I observe also that it has frequently been mentioned—and I think you, yourself, indicated it—that it was possible that a very large number of applicants for these third class posts are always available?—I am sure of that.

50,685. And it has also been said more than once that the difference between them is inappreciable?—It comes to this, that you have a lot of very good, well-deserving men who come forward, and it is a pitiable thing, I know, when there are so many seeking employment and there is so little employment to give.

50,686. I notice, my Lord, you state that in the case of many of the appointments there is very little, if anything, to choose between different candidates?—That is perfectly true.

50,687. I have reason to think that that is the case. Is not that a very strong argument for saying: "There is so little to choose between you, gentlemen, that I shall make you all go in for a competitive examination"?—Pray do not let me be understood as being a sworn foe of competitive examination. I am not. I think it really does solve a difficulty which otherwise seems to me, perhaps, insuperable; but I do beg very strongly to say that I am not to be taken as thinking that the man who passes the best examination knows most even of the subject on which he is examined. Let me tell you of an incident: I remember once being asked by one of the universities to examine for a great legal prize. It was a great compliment to me to ask me to do it. I was Attorney-General at the time, and I said, "Well, I will see; but let me see some of the papers that have been set," and they sent me the papers which had been set in previous examinations, and I declare to you that I doubt if I could have qualified in those papers, and I am quite certain that I could not have won the prize. The reason is that the questions had no relation to the actual work of the law as barristers and judges know it, and to me they investigated into a proficiency in knowledge which was useless for practical purposes.

50,688. But as examiner you could have set a paper which would have been suitable?—I would not examine, because I did not think I was qualified.

50,689. The result is that the examination in question was utterly inappropriate, say, for the class of candidates to be examined for the Civil Service?—This was not a Civil Service examination. I make no reflection upon anybody.

50,690. Does there not seem a strong reason, where you have a large number of candidates whose other qualifications are all very similar indeed, for you to say, "We shall decide who are successful and who are not by the results of a perfectly impartial, and appropriate, competitive examination"?—It cuts the Gordian knot.

50,691. Some preliminary qualification, as Mr. Snowden suggested, would be required beforehand as to previous experience, testimonials as to character, and so on, but the competitive examination would come in after these preliminaries had been settled?—Yes.

50,692. With regard to the promotion work of the proposed board or committee, which is extremely important, that committee would have to be sitting nearly continuously, would it not, if it were to take charge of the whole of the various legal departments, Central Office, and others?—Oh dear no. I do not think so. (Mr. Coward.) There are between 400 and 500 of these clerks in these offices—417, I think.

50,693. (Sir Donald MacAlister.) How many appointments are made a year?—(Mr. Coward.) I do not know that. (Witness.) If they are life appointments you can get at that by dividing the 417 by the average duration of the tenure of the office.

50,694. (Chairman.) The appointments are somewhere about 20 a year?—Most of the promotions would in all cases be routine.

50,695. (Sir Donald MacAlister.) Such a committee or board, then, would not be overworked?—No, it would meet very occasionally.

50,696. With regard to promotions, you contemplate it being an instruction to this committee that merit is the first consideration, and seniority only in cases of equality?—I did not mean to convey that. In the first place, I would exclude all existing appointments; but then when you come to the future if you leave a discretion you or I might intimate a preference one way or the other; but I am quite certain that no committee would ever pass over a man without good reason. I think we must all estimate how things of that kind would work, but my belief is that the rule would be promotion by seniority, and the exception would be selection by special merit. I think that is the way it would work.

50,697. You would give it as an option to such a Promotion Board—because it would be that?—It would be a Promotion Board—

50,698. To say, "Here is a vacancy; we will consider whether there is anyone in the office who is fit to fill the vacancy in order of seniority, and if we do not find such a person we are free to appoint someone from outside?"—Yes? the comparison that there is in my mind—if I may give you my reason—all through is this: Take the great staffs that there are. Many people in this country have large staffs of employees of all kinds—hundreds and thousands—and what they always do is, they get the best man they can with regard to the post. That is perhaps, rather too great a break with tradition to apply roughly, and at once, to the Civil Service, and therefore you go on not quite like that in a Government department; but I would try to qualify the practice of departments by the example of private employers in a reasonable way to a reasonable extent.

50,699. You would not exclude their appointing someone from outside to a high post, if they were not satisfied that there was anybody already on the staff who was perfectly suitable for it?—I should think if they had not anyone who was perfectly fit it would be their duty to appoint from outside.

50,700. (Miss Haldane.) There is one point with regard to appointments which I do not think you were asked about. Would you approve of further steps being taken to make vacant appointments known by advertisement or otherwise?—I should not object to it, but everybody who wants an appointment sends in his name, and anybody can send in his name. It is perfectly well known, so I doubt whether there is any necessity for advertising.

50,701. But I suppose it is known within a limited circle, so to speak; the whole public would not know it?—If they do not know it, and have not fair opportunities they ought to have fair opportunities.

50,702. I gather that you are in favour of a woman Visitor in Lunacy being appointed?—Most strongly. I do not care about the office—I mean they ought to be treated just in the same sort of way as men are; but I think it is a cruel thing not to allow women to have those of their own sex in high responsible positions dealing with lunacy matters.

50,703. At present, as you know, it is necessary for the visitor, other than the doctors, to have a legal qualification. Would you anticipate that the barrier against women being qualified in this way may soon disappear?—You are asking me quite a different question, but I do not in the least mind answering it. I think that the disqualifications for the legal profession which affect women now ought to be removed—I mean for entering these professions.

50,704. You think it ought to be open to women?—I think it ought to be open. I am not now speaking of a judgeship, which really is outside the whole scope of your inquiry, but I am speaking about admission into the legal profession.

50,705. (Mr. Philip Snowden.) That is to say, you would permit women to be solicitors and barristers?—Yes; and afterwards when they come to the period when they might become eligible for judicial offices, experience will be able to tell those who come after me whether they ought to be advanced to those offices.

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50,706. (*Miss Haldane*.) In fact, the best qualified persons, be they male or female, should be appointed?—I am speaking simply of admission to the legal profession. They would have to get their practice and business if they proved themselves to be competent for it, of course.

50,707. Do you consider that women might be admitted into some of the other departments which we have been discussing?—Certainly.

50,708. Into the clerical departments?—Certainly.

50,709. It struck me, in listening to the evidence, that a great deal of the work, for instance, in the Scrivenery Department really might be done by typists, and so on?—Is it not? I remember going once to the Law Courts and receiving a deputation of the scriveners. My memory may be failing, but if I recollect rightly there were some women there. Am I wrong?

50,710. (*Chairman*.) There are some, but not very many?—There are not very many in the Scrivenery Office.

50,711. (*Miss Haldane*.) There are a few in the office, and a certain amount of typing is done outside?—My answer is, that I see no objection to women being employed.

50,712. We had evidence from the official solicitor, that he appointed ladies in the country to visit lunatics because he was employed by the Masters in Lunacy to administer the estates of female lunatics. Nobody directed it, but it was done in a semi-private manner. It would be better, would it not, that the visiting should be done officially?—Certainly, and as a rule, and as a matter of course. I do not say that men should not act as medical advisers in regard to women patients, but to my mind women should certainly take part in it.

50,713. That women should also be visiting those lunatics who are women?—Yes. I may be wrong, I have never gone and visited these poor people myself, but I feel that if I were a woman, I would much prefer to see a woman as a medical inspector or visitor.

50,714. In fact, it applies both to the medical side and to the other side?—Yes, I am quite sure it would.

50,715. (*Sir John Kempe*.) I understand that you propose the establishment of a lower grade for inferior work. Already the scriveners do the absolutely mechanical work?—That is so.

50,716. The lower grade you propose would, I suppose, do the purely mechanical work, and something in addition, which is now done by the third class clerks. Would your new class be composed of men doing partly purely mechanical work, and partly the lower grade of work done by the third class now?—It is very difficult to distinguish between the different grades of work, and one would have to go into the thing closely in order to describe the dividing line. You never can find a formula to define things to absolutely mutually exclusive departments; but what I mean is that the sort of work which is done, which is merely clerical or which is merely mechanical, should be the work for the lower grade. I could not define the exact line. That would have to be done after inquiry into the nature of the work.

50,717. In the earliest days of the Civil Service the first committee recommended that there should be a distinct division between mechanical and intellectual work, as they called it, and the result of that was that the copyist class was established, and that turned out such a failure that it had to be abolished after a few years, and what was called the second division was established, into which many of the copyists were absorbed. It was found impossible, in fact, to have a lower grade for purely mechanical work. Would not the same difficulty arise now; that is to say, if you give the lower grade part of the work now done by the third class it would overlap the third class, and you always would have overlapping, unless you make a distinct division between mechanical and intellectual work?—I do not know that there is any distinction between mechanical and intellectual work that you can draw rigidly.

50,718. There is the typewriting machine for copying simply?—Typewriting, I should think, was mechanical work.

50,719. And there is copying, scrivenery?—I should think some copying was mechanical work.

50,720. Is it not far better to keep the distinction at mechanical work and not to try and impose upon the same class partly intellectual work, such as checking figures and the filling up of forms, which are very often liable to mistakes, and require a certain amount of intelligence?—No doubt you are perfectly right; but I could not draw the line distinctly. One would have to examine into it.

50,721. I want to know why you are dissatisfied with the third class doing some mechanical work and some less intellectual work now as training for their work afterwards. In all the Civil Service the lower class begin by doing a certain amount of less intellectual work and gradually rise. Do you wish to cut off the third class from that kind of work which, after all, is good training?—No; I do not want to cut them off from it in the least. What I feel, and the source of my suggestion, is this: You employ people to begin within the third class, and for the third class it suffices at present that a man shall have some examination in the three R's, and he is put into that class. There he has to do some mechanical work and some work which is not mechanical, like the filling up of forms. Then he proceeds steadily up until he gets to the top of the tree. The consequence is that the man who is introduced for mechanical reasons, so to speak, proceeds as if he had been introduced for other reasons.

50,722. My point is that you restore the old difficulty of overlapping work, and the difficulty of refusing to the lowest class entrance into the upper class unless they show distinguished merit. As at present the Scrivenery Department seems to be a fairly defined line, and it is purely mechanical work?—Yes.

50,723. I do not see why you should not be contented with the first, second, and third classes as they are now, but alter the method of entry if you like. I do not see that anything has been yet said sufficiently against the third class doing the work they do now?—I have not at any time suggested that they ought not to be entitled to promotion if they deserve it, but when you have mixed work, if it be mixed work, as it is, to a certain extent, I think you ought to have promotion when it is deserved, but not promotion going automatically and without any sufficient test to show that the person who is capable enough of stamping writs or filling up a simple form, for example, should go to the very top of the tree. However, it is a matter of opinion. I agree that there always must be a difficulty in finding a dividing line if you are going to divide.

50,724. Therefore, when you have a dividing line which seems fairly satisfactory, it seems a pity to depart from it?—If it is fairly satisfactory.

50,725. The scrivenery people do not expect to go up into the third class?—No.

50,726. (*Chairman*.) I have not understood your lordship's suggestion as including the scrivenery work in the lower grade that you speak of?—No.

50,727. The scrivenery work is at present entirely separate, and is mostly paid for as piecework. No suggestion has yet been put in evidence before the Commission, so far as I recollect, for putting that work upon the body of persons who do the present work of the third class, and I have not understood your suggestion as implying any change in that respect?—I did not mean to convey that. I thought I took the illustration of the Central Office with the first, second, and third class clerks. I did not mean to enter into the question of the Scrivenery Department at all, and I do not think I did.

50,728. The view on which the suggestion was based, as I understood it, was that the present work of the third class is, in the Central Office, and to a great extent throughout the legal offices, of a purely mechanical nature but of a clerical kind—the keeping of books and records and the filing of documents, but not the actual copying, which is done by the scriveners. It is work of a very mechanical kind, although of a clerical character, and it was work of that kind which you considered an unsatisfactory preparation for work of a better kind, and you suggested that it had better be treated by a separate grade which would not normally

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look for promotion to the higher grades. Was not that your suggestion?—That is exactly what I meant.

50,729. (*Sir John Kempe.*) That seems to me to raise a difficult question of three grades instead of

two?—If you will introduce me to a question on the point which is not difficult I shall be much obliged.

(*Chairman.*) The Commission are much indebted to your lordship for the evidence you have given.

Mr. CHARLES NEISH, C.B., Registrar of the Privy Council (Judicial Committee), accompanied by Mr. W. R. WALLACE, Chief Clerk, called and examined.

50,730. (*Chairman.*) You are Registrar of the Privy Council?—I am.

50,731. How long have you held that office?—Since September 1909.

50,732. What had been your previous experience before appointment as registrar?—I was a barrister called in 1881. I had a practice at the Bar. I “devilled,” to use the common expression, for Lord Loreburn when he was Attorney-General and Solicitor-General, and also “devilled” for him when he ceased to hold those offices, and on the appointment of Lord Loreburn as Lord Chancellor I became his private secretary, an office which I held for four years, from 1905 to 1909.

50,733. Generally, what is the work of the office?—The duties of the Judicial Department are practically confined to appeals to His Majesty in Council from India, the Dominions beyond the Seas, Channel Islands and Isle of Man, and the Ecclesiastical Courts of this country, and matters specially referred by His Majesty to the Judicial Committee. That is under Section 4 of the Judicial Committee Act, 1833. The only index to the amount of work transacted would be a return of the number of appeals and analogous matters which were admitted in any one year. I have here a table giving the information for two years. In 1891–92 there were 68 appeals and 35 petitions for leave to appeal, etc. In 1911–12 there were 121 appeals and 84 petitions. Since then I have had the return made up to date, and in 1912 there were 100 appeals and 83 petitions. In 1913 there were 141 appeals and 105 petitions. In 1914 there were 115 appeals and 115 petitions—the two figures corresponding.

50,734. I gather from that the work is increasing?—Yes. Since then under the Government of Ireland Act and the Welsh Church Act various matters are also referred to the Judicial Committee. All appeals from Ireland and questions as to the validity of Irish Acts of Parliament in future will come to the Judicial Committee. Under the Welsh Church Act, there are questions for appeal as regards border parishes and also questions as to the amount of funds to be transferred to the new body constituted under that Act. In addition to that we take all the appeals from the Prize Courts in this country and throughout the empire.

50,735. That is likely to give a considerable amount of work in the near future?—Yes.

50,736. Then the work of the registrar and his office in connection with those cases consists, I suppose, of practically the whole of the work which is done in the Supreme Court by the officers of the Supreme Court?—Yes.

50,737. That is to say the preparation of all papers and the keeping of the records in connection with those cases?—Yes, and seeing that the cases are all ripe for hearing. In addition to that we very often have to keep practitioners right on questions of practice; they are in and out all day long consulting us. We carry on a very large correspondence with all parts of the empire. Colonial judges and colonial practitioners come to the office every now and again to make inquiries as to matters of procedure, and so forth.

50,738. Has the registrar any work of a judicial character?—Only so far as occasionally advising the Board on questions of practice, and, of course, I am responsible for the accuracy of the Orders in Council; they certainly require extraordinary care, because once we have passed an Order in Council we cannot alter it without a further Order in Council.

50,739. The registrar has none of the work which, for instance, masters have in deciding on interlocutory applications or applications on points of procedure?—

Sometimes the parties come before me, but not very often. In addition to what I have outlined just now I have to do all the taxations; I am the taxing officer for the appeals.

50,740. And all orders are drawn up by you?—Yes, with the assistance of the chief clerk, and the judgments, of course, are revised.

50,741. What is the staff of the office?—The staff consists of myself, a chief clerk, a second clerk, a third clerk, and a lady typist.

50,742. And that staff is sufficient for keeping up with the work?—Yes, I think so.

50,743. Will you tell us what the salaries of those officers are?—My salary in 1909 was 1,200*l.*, and in 1915 it became 1,500*l.* That was under an old arrangement, I think, settled in 1874.

50,744. What was your age on appointment?—52. The salary of my chief clerk, Mr. W. R. Wallace, is 500*l.* rising to 650*l.* by increments of 20*l.* a year. His present salary is 600*l.*, and, I think, he reaches the maximum in 1917. His age on appointment in 1902 was 29. He entered the office in that year as second clerk.

50,745. What had been his previous experience?—He had been transferred from the Official Solicitor's Department, Royal Courts of Justice, where he had been a managing clerk for more than six years prior to 1902. The second clerk is Mr. J. H. Houghton. His salary is 250*l.* to 450*l.*, rising by increments of 15*l.* a year. His present salary is 325*l.* His age on appointment in 1909 was 30. He came from the district registrar's office at Liverpool. Both these gentlemen are solicitors of the Supreme Court. The third clerk is Mr. D. G. Lys. His salary is 100*l.* rising to 250*l.* by increments of 10*l.* a year; his present salary is 220*l.* His age on appointment in 1900 as temporary clerk was 19. He was a boy clerk in the Charity Commission from 1897 to 1900; he was appointed to a temporary clerkship in 1900, and on a reorganisation of the department in 1902, having passed the examination for assistant clerks (abstractors) he was appointed third clerk.

50,746. You also have a woman clerk?—Yes, Miss Lewis. Her salary is now 40*s.* to 46*s.* a week, rising by increments of 2*s.* per week per annum. Her present salary is 42*s.* per week. I think Sir Almeric FitzRoy was asked in 1912 some questions in regard to her salary, which was then 26*s.* a week plus 25*l.* a year as a maximum for shorthand. She very nearly reached the 25*l.* a year, but not in every year. That would make her maximum salary before 1913 92*l.* 12*s.* as against her present salary of 109*l.* 2*s.*

50,747. Does she do any work besides shorthand and typewriting?—Yes, she reads the proofs. I might explain that most of the records that come from abroad are printed, but a certain number come over in manuscript (I think the number for last year was 40), and they are printed here, and then it becomes the duty of Miss Lewis to go through the proofs with the solicitors to see that they are accurate.

50,748. The proofs of those that are printed here?—Yes, and it was for that reason that it was thought she ought to have some more money. We had a proof reader, a Mr. Maggiolini, who was retired in 1913, who, I think, got 3*l.* a week, and when his retirement took place we represented to the Treasury that Miss Lewis's position, and also the position of Mr. Lys, might be improved. The Treasury assented to that, and they gave Mr. Lys an extra 50*l.* a year, and they increased Miss Lewis's remuneration, as I have already stated, to 46*s.* a week.

50,749. (*Mr. Coward.*) These transcripts are not always in English?—No, they are sometimes in French.

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50,750. From Canada they come to a considerable extent in French if they come from the French part of Canada?—Yes, from Quebec.

50,751. Does Miss Lewis understand French?—She has some knowledge of it; I do not suppose she can speak it; but, I do not think, there is much difficulty. I should imagine that the solicitor's clerk's French is not particularly good, and I dare say she manages to make it out.

50,752. (*Miss Haldane.*) I think Sir Almeric FitzRoy told us that she got an additional increment for doing overtime work. Is it a recent change that you are speaking of?—Yes; I think that was under a different set of circumstances before 1913.

50,753. Yes, it was 1912 Sir Almeric was speaking of?—Yes.

50,754. (*Chairman.*) All the records are printed before they come before the Court?—Yes.

50,755. Are all the judgments printed too?—Yes, all the judgments are printed.

50,756. Does the work of the department vary much at different times of the year?—No, I do not think it does very much. Of course, we are busier when the Board is sitting, but there is a great deal of routine work to be done when the Board is not sitting.

50,757. And that goes on all the year round?—Yes, and there is a very large correspondence as well with the courts abroad.

50,758. What rules apply as regards hours of attendance?—The usual Civil Service rules—10 to 5—and the same arrangement applies to the holidays.

50,759. And the usual Civil Service rules as regards holidays?—Yes; but in regard to that I might say that, so far as the first and second clerks are concerned, I doubt very much whether they get the full Civil Service holiday, because we have a rule in the office that one of these professional gentlemen must always be in attendance in case any questions arise or require to be answered by people who call.

50,760. (*Mr. Coward.*) In or out of vacation?—Yes, the office is open all the year round, except on Christmas Day, Good Friday, and the Bank Holidays.

50,761. (*Chairman.*) Have you any rule as regards the age limit of retirement?—The Civil Service rules as to retirement apply to the clerks, but my office is one which is held from the King. It is a patent office, and I believe, so far as I am personally concerned, there is no age limit.

50,762. You hold office during good behaviour?—Yes.

50,763. Who appoints to your office?—The King, on the recommendation of the Lord President, under Section 18 of the Act of 1833.

50,764. And who appoints to the other posts in the office?—The other appointments are made by the Lord President, entirely on his own responsibility.

50,765. And promotions, too, I presume, are made by the Lord President?—Yes.

50,766. Have the clerks to obtain Civil Service certificates?—Yes.

50,767. Is there any qualifying examination?—No, except, I suppose, there must have been some examination for the third clerk. He came from the class of abstractors, but really it was long before my time, and I do not know about that. They settled that qualification for Mr. Lys, as he had passed that particular examination.

50,768. So he obtained a certificate after passing that examination?—Yes.

50,769. And are the first and second clerks certificated?—Yes.

50,770. Were they certificated under clause 7, without examination?—(*Mr. Wallace.*) I think the answer is, yes. I got the usual certificate from the Civil Service Commissioners, and produced my admission certificate as a solicitor to them.

50,771. Were you medically examined?—Yes, and also the usual certificates were obtained as to my character.

50,772. And on that you were given a certificate from the Commissioners, probably, under what is known as clause 7?—I think so.

50,773. (*Mr. Coward.*) You had undergone your examination before you were admitted?—Yes, as a solicitor.

50,774. (*Chairman.*) (*To Mr. Neish.*) Do you find the present organisation and the system of the office satisfactory?—If I may say so, it is quite admirable. We all know each others' work, and it is all interchangeable; and if one of the clerks is away ill or absent for any reason, the others are quite capable of doing his work.

50,775. Do you think that the present system of appointment is the best?—I think so on the whole. There may be a better, but on the whole it is satisfactory.

50,776. Suggestions have been made to the Commission as to a Committee or Board to make appointments to all the legal departments. If such a Board were set up, would you consider it would be better that appointments to your department should be made by that Board?—I should have thought not. The vacancies are very few; it is a very small office; but I should think it was rather more a question for the Commission than for myself. All I can say is, that the present arrangement is satisfactory; I am responsible for the working of the office, and I do not think I can say more than that.

50,777. A question has also been raised with regard to the other offices—whether the clerks in the office should be considered eligible for appointment to the head post in the office, mastership or registrarship as the case may be, provided they have the necessary qualities for performance of the work?—I can see no objection to that, because in the case of my office the statute itself is particularly vague; it says, "any person" may be appointed.

50,778. Is there any statutory qualification?—No statutory qualification at all.

50,779. So there would be nothing to prevent the Lord President appointing one of the clerks if he thought him a suitable person?—Absolutely nothing. The Act uses the expression "any person," and "any person" might mean even a person without any legal qualification, which, I think, might be rather disastrous.

50,780. (*Sir John Kempe.*) Do you have much to do with the other legal departments?—No, not very much. We sometimes have business with what I might call the Privy Council proper—Sir Almeric FitzRoy's department, but that is chiefly in regard to passing Orders in Council.

50,781. Your work is not what they call technical legal work, like the Chancery?—Yes, it is.

50,782. But I suppose you have technicalities of your own; experience of the work in the Chancery and other legal departments would not help any one in your department?—No; but ours is purely legal work.

50,783. Is it more legal than some of the work of the Colonial Office, for instance?—Certainly. It has entirely to do with appeals from legal courts abroad.

50,784. It is a court, in fact?—Yes.

50,785. (*Mr. Coward.*) I should like to say that I have nothing to ask you, because I have always heard that your office is conducted as a model office?—I am obliged to you.

50,786. (*Mr. Graham Wallas.*) In your model office you have the opportunity of seeing rather closely the work of a lady shorthand typist?—Yes.

50,787. Would you say it is true that the work of a thorough shorthand typist is purely mechanical?—No, I should not say that, because our lady has to understand to a certain extent legal phraseology.

50,788. That is to say, a lady of good general ability and good education is enormously more useful than a lady who has acquired the merely mechanical arts of shorthand and typewriting?—I would not say enormously, because, given ordinary intelligence, any lady might pick it up in time; but, so far as regards starting a lady on this business is concerned, it is an advantage to have that knowledge.

50,789. Anyhow, the developed work is not mechanical work?—Not altogether.

50,790. You said the members of the staff could do each other's work, and were, in fact, interchangeable in

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the case of holidays, and so on. Does that include Miss Lewis?—No.

50,791. She does only her ordinary work?—Quite so.

50,792. But you say she does sit there and solicitors come in with proofs and, as might happen in a newspaper office, she checks with them the proofs. Would you say, therefore, from actual experience, that it is not impossible that a lady member of the staff should work in the same room and on the same piece of work as a male member of the outside public. We have been told *a priori* by witnesses that it is unthinkable that any work which involves co-operation in any sense with the male outside public can be done by a woman. You have the valuable experience of seeing it done, and you would agree that it could be done and without evil effects?—I think so, certainly.

50,793. Again, if it is said by anybody who is speaking purely *a priori*, that all women's work must necessarily be done in segregation, you would say yours is a small office, and that in that office it is not done in segregation?—Miss Lewis has a room to herself, but I do not think she is segregated. My chief clerk suggests that probably the point is that the solicitors attend before her. Is that what you mean?

50,794. Not only does she work very freely with other members of the office, but she does in fact work in a certain amount of direct association with members of the public?—That is so.

50,795. And the effects are wholly desirable?—Quite satisfactory.

50,796. (Mr. Philip Snowden.) You told us that you were appointed at the age of 52 to your present post?—Yes.

50,797. And you were private secretary to Lord Loreburn before your appointment?—Yes, before my appointment.

50,798. Then you were appointed direct from that position of private secretary to your present post?—I was.

50,799. Has it never been the case that a chief clerk in the office has been appointed to the post that you hold?—I do not think so. I have no recollection of it.

50,800. But I understood you to say that there was no legal disability attaching to it?—None whatever, because the Act is perfectly plain. It says, "any person" may be appointed.

50,801. Do you hold the certificate of the Civil Service Commissioners?—No.

50,802. Your office is a pensionable one, I suppose?—I imagine it must be, but I really have not inquired.

50,803. Then you do not know if any years were added to your length of service for pension purposes?—No, I could not say.

50,804. You spoke of a proof reader that you formerly had in the office?—Yes.

50,805. When he was there, did he devote all his time to reading proofs?—Yes.

50,806. Would there be sufficient work to employ him fully to do that?—I suppose he did some other work as well. He used to type the records in addition to doing the proofs. The records that come over in manuscript are sent over in the originals. We never allow the original to go out of the office, and a typewritten copy is made of that for the printer. In addition to his proof reading he used to make these type-written copies.

50,807. In regard to appointments to the clerkships, is there anything like an examination of the candidates before their appointment?—No.

50,808. No examination at all?—No.

50,809. It is purely a nomination appointment?—It is purely a nomination appointment. Mr. Wallace reminds me that the third clerk had got a Civil Service certificate, and he was transferred from the Charity Commission.

50,810. Is there anything like an understanding as to the qualifications that should be possessed by the men who are appointed to these clerkships?—The qualification that I would suggest would be that the first and second clerks should be solicitors.

50,811. Are the appointments made direct to the second clerkship and the first clerkship?—Yes.

50,812. It is not the practice to appoint to the third clerkship and then promote them to the second and the first as vacancies arise?—No, if the third clerk were a solicitor there could be no objection to promoting him to the second clerkship, and then, of course, he might work his way up to the first; but certainly I have a very strong opinion myself that the first and second clerks ought to be solicitors. Whether there should be a limited competition for these posts is, of course, a matter for the Commission.

Mr. BUTLER ASPINALL, K.C., called and examined.

50,813. (Chairman.) You are a King's Counsel practising in the Admiralty Division?—Yes.

50,814. You have practised there for a considerable number of years?—Yes, a great number of years.

50,815. You have had experience there both as a junior and as a leader?—Yes.

50,816. Generally, what is your opinion as to the way in which the work of the registry is performed?—I think it is done admirably.

50,817. In your practice there, I suppose you come in contact principally with the registrar himself?—Yes, there are two—the registrar and the assistant registrar. One comes in contact with both of them.

50,818. What is the nature of the cases that they dispose of, or deal with?—They have three classes of work: First of all, they deal with a great many interlocutory matters, namely, matters which have to be disposed of before the case comes to trial before the judge—applications as to whether interrogatories should be allowed, applications as to whether a ship which has been arrested should be released, applications with regard to the form of pleadings, applications with regard to the examination of witnesses, applications with regard to the time and the date of the trial, and matters of that sort. The second class of matter they have to deal with—and this is a very important branch of their jurisdiction—is, that after the case has come into court, and the question of liability has been determined by the judge, namely, whether the plaintiff or the defendant wins the action, the question of the assessment of damages instead of being dealt with by the judge in court, as, I believe, obtains in many other branches of the High Court of Justice, is referred to a

tribunal which is composed of either the registrar or the assistant registrar, who has the assistance of two merchants, gentlemen chosen from the City of London who are conversant with business matters, and especially with maritime business matters, and that tribunal then considers whether the claim put forward by the successful litigant is well founded or not, criticises it, rejects it, or cuts it down, as the case may be. That class of work is being performed by them, I think, almost daily, because a great number of cases which are launched in the Admiralty Division do not come to trial; after the parties have seen what the case of the other is, one may give in and say: "I submit to judgment, but I wish now to have my damages assessed." The result of that is that that case, which has never been adjudicated upon by the Court, also comes before this tribunal, and I should think that the turnover of money dealt with by the registrar and the merchants runs into several hundreds of thousands of pounds in the course of a year. As you can well understand, with two ships coming into collision, sometimes there is a total loss, and ships are costly things, and their cargoes are often even more costly, and sums of money running from hundreds of pounds up to even a quarter of a million, sometimes, have to be disposed of by this tribunal.

50,819. Is that tribunal found to be a satisfactory one to deal with the question of damages?—I think it is. In order to complete my evidence with regard to that matter, in addition to collision work—I have been rather confining my remarks to the Admiralty branch of jurisdiction, namely, collisions—they also are now dealing with prize work, and there is a great deal of

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assessment of figures in connection with prize work. After the President has determined the rights of the Crown, or of the claimant in a prize cause, the registrar very often then has to consider the question of what is the right freight that the cargo should pay to the ship for the carriage of the cargo to its port of unloading, and also to consider questions with regard to what should be paid to dock owners and shipwrights and other persons who possibly have done work to the prize which is condemned by the Court. I think that, in substance, is the class of work that they do.

50,820. All those questions are dealt with by the registrar with the merchants?—Yes. The interlocutory matters which I have spoken of at the outset of my evidence which are mere questions of practice, are dealt with by the registrar alone. Where the registrar is dealing with figures then he has the assistance of those two business men.

50,821. There are two of them?—Two. In the small cases, I believe, sometimes the parties, for the purpose of saving expense, come to an agreement that there shall be only one; but in nearly all there are two.

50,822. How are the merchants appointed or selected?—I am not certain that I possess accurate information with regard to that matter, but in substance I think it comes to this, the registrar makes it his business to ascertain who are competent, and then, I think—but with regard to this I am not sure—it rests with the President of the Division to appoint them.

50,823. Can you tell us how they are remunerated? No, but I can tell you that it is something small.

50,824. Is there a large panel of merchants who are available?—I do not know whether I am justified in saying a large panel. I think—and again I am not quite certain that I know with certainty—it is a panel in the neighbourhood of six, or thereabouts.

50,825. And that tribunal is found to be a satisfactory and businesslike tribunal for dealing with these questions?—I have heard no complaint of it either from the barrister, the solicitor or the business man, or, perhaps, even more important still, the underwriters, because after all it is they, who, in the end, have to pay the bill in respect of any maritime loss or casualty.

50,826. Does this same tribunal also assess the amounts to be paid for salvage?—No, it does not. It does sometimes indirectly, in this way: Assuming two ships A and B come into collision, and after the collision has happened one of them receives a salvage service and then a claim is made against her by the salvor, sometimes she sees fit without going to Court to settle with the salvor, and then the collision action as between A and B comes before the Court, and the vessel that has received salvage service wins the day. Then she goes before the registrar for the assessment of her damages, and amongst other items of claim she brings in the sum of money which she has paid to the salvor, and under those circumstances it is open to the party who has lost the day, and who has been found to blame, to say that the sum of money which the successful litigant has paid to the salvor is excessive and unreasonable. Under those circumstances the registrar then has to consider whether it was a reasonable sum that the successful litigant has paid. If he finds that it was, then he makes the unsuccessful litigant pay the successful litigant the sum of money he has paid to the salvor. If he finds that it was unreasonable and extravagant, then he fixes another sum. So it is only in that indirect way that he has to deal with salvage, and that does not often occur.

50,827. In ordinary salvage cases the amount is assessed by the Court?—By the Court.

50,828. In those cases that come before the registrar, are witnesses often heard?—Yes, witnesses are often heard. A good deal of the evidence is given on affidavit, but there is a great deal of oral testimony, especially of a technical character—surveyors are frequently called, and ships valuers. Take the case, which not infrequently happens, of a ship being totally lost in a collision. The successful litigant then asks the registrar and merchants to pay him what he says is the value of the ship, and in support of his case he either produces an affidavit from a ship valuer, or calls

a ship valuer to speak in person as to what he thinks to be the value. Then probably the defendant, the unsuccessful litigant, also puts his surveyor into the box who gives another figure, and the registrar and merchants have to weigh the scales between the two figures. I may add that in considering the propriety of a shipwright's repair bill, which is a matter the registrar often has to deal with—for instance, if the ship is damaged and not lost, and undergoes very heavy repairs, sometimes amounting to several thousands of pounds—that is investigated by the registrar and merchants, and the person who is putting forward the bill brings his surveyor to support it; the enemy, as a rule, brings his surveyor to criticise it.

50,829. (Mr. Coward.) And would say that such and such damage did not result from this collision?—Yes.

50,830. Raising most serious questions?—Undoubtedly; and in addition saying, not infrequently, that the amounts charged are excessive and unreasonable. Perhaps what you recall to my memory is really the more important of the two, because it wipes out the whole of the figure claimed, and the other only goes to reduction.

50,831. (Chairman.) Then all the processes connected with Admiralty causes—the drawing up of orders, the taxation of costs, and all the operations subsequent to the hearing of the case—are dealt with in the registrar's office?—That is so.

50,832. Is all that work conducted satisfactorily?—From my experience undoubtedly so. I think it is only right that I should say this in order to make my evidence, so far as I can, exhaustive. I have now had either the pleasure or the misfortune to have been a silk for the last 15 or 16 years, and therefore I am not so intimately in touch with that class of work as I was during the period of time I was a junior; but still, in view of the fact that I have been closely connected with the Admiralty Court for some 29 years, I am in a position, I think, to speak with some authority as to the way that sort of work is done. I am very confident, also, that if it was not well done, apart from my personal experience at the moment, I should hear complaints either from the juniors who practise in the Court or the solicitors.

50,833. And, as a matter of fact, you have not heard complaints?—No, I have not.

50,834. Taking first the registrar and the assistant registrar, they are appointed by the President of the division?—Yes.

50,835. Is there any statutory qualification?—I think not, but I am not sure.

50,836. In fact they have been barristers?—In my time that has been so; Mr. Bathurst was the first I personally knew of.

50,837. (Mr. Coward.) Mr. Rothery was a solicitor?—I was not there in his days, but I think he was a solicitor.

50,838. Was not he one of the ablest men who sat in that chair?—I certainly can say this of him, that although I had not the pleasure of knowing him as Registrar of the Admiralty Division, afterwards I often had the pleasure of appearing before him when he was the Wreck Commissioner, and I was undoubtedly struck by his remarkable ability in dealing with that class of work, and also I know *ex relatione* from others the remarkable ability that he showed during the time he held the office of registrar.

50,839. He was the author of the "Parana" judgment?—Yes, and there are many of his reports which carry great weight at the present day. They are often cited in the various courts as, "This is the Report of 'Mr. Rothery on' such and such a subject, which weighs with all the tribunals even up to the House of Lords. I think, since that time, all the holders of the office have been members of the Bar.

50,840. (Chairman.) Is there not a statutory qualification of 10 years' standing as barrister or solicitor?—Yes.

50,841. Do you consider that the duties of the registrar are such that a barrister ought, as a rule, to be appointed?—My answer to that is, yes. I can quite appreciate that there may be solicitors who would be

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quite as capable of performing the duties as a barrister; but I think that a barrister who practises in that court has exceptional claims to the office. I use the word "claims," not from the point of view of the barrister, but from the point of view of the public. My idea is that the class of man who should be made either the registrar or the assistant registrar is a man who has had a fair, or, perhaps, a substantial amount of work as a practitioner in the Court. It appears to me that he, under those circumstances, is in immediate touch with the work of the Court; he knows what point of view the judges have with regard to those matters, and he is in direct touch with the work generally. Speaking for myself, I should say that the barrister was the better qualified of the two branches of the profession to do the work. I have known many able solicitors who, I have no doubt, would have all the necessary ability; but I do not think they have quite the same opportunities of acquiring the special knowledge which is required to discharge the duties of this office, as apply in the case of the barrister practising in the Court.

50,842. The clerks in the office are also appointed by the President?—Yes.

50,843. Are you prepared to express an opinion as to the qualifications necessary for appointment to these posts, or as to the method of appointment?—No; it is a matter I know nothing of.

50,844. What are the vacation arrangements in the registrar's office?—That, again, I am afraid is a matter I know nothing of. It is a matter that the registrar would be able to tell you about.

50,845. I am putting the question from the point of view of whether the arrangements for vacations are suitable for the transaction of any business that may be required?—With regard to that I am in a position to say this, and, I think, no more, that, as far as I know, I have heard no complaints that the vacations taken by the registrar or his assistant are unduly long.

50,846. (*Mr. Coward.*) You are never there in vacation?—No, I am not there. I only put that from what I have been told, or, rather, from what I have not been told, viz., I have heard no complaint.

50,847. (*Chairman.*) If there was any urgent business requiring to be attended to in vacation, would that be a matter that the solicitor would deal with?—That would be a matter that the solicitor would deal with. On the other hand, the solicitor might see fit to instruct counsel to attend to it, and I assume—again I do not know—that there would be facilities given, in cases of urgency, for getting the registrar or the assistant registrar to attend to the matter; but I do not think my evidence with regard to it is of much value; it is really assumption.

50,848. It has not come to your notice that there is any deficiency in that respect?—No.

50,849. And probably you are away on vacation yourself?—Yes; I do not think it is a matter I could assist you upon.

50,850. Are you prepared to express any opinion as to whether an age limit for retirement should be fixed, either for the registrars or for their staff?—I think, undoubtedly, it would be well that there should be an age limit.

50,851. What limit would you suggest in the case of the registrars?—That is a matter I have never considered, and I really do not know that any view of mine would be of much assistance. While I can well understand that there are numbers of men of 70 years of age and upwards who would be quite qualified to go on with the work, on the other hand, my view rather is that a large percentage of men are not at their best after that age to do the sort of work that is required of the registrar, which is rather rough and tumble work. Personally, I think it would be better if there was an age limit, but what the age should be really I am not in a position to say.

50,852. Are there any other points on which you have criticisms or suggestions to make and which you wish to lay before the Commission?—No.

50,853. There is one point on which suggestions have been made, and that is, that the taxing work, which at present is done in the Admiralty Registry, should be transferred to the Central Taxing Office. Do you con-

sider that there would be any advantage in that, or would you prefer to leave it where it is?—I should have thought that there would be no advantage, and that it would be much better for it to remain where it is. The taxing work that is discharged by the Admiralty Registry is of a highly technical character.

50,854. And the taxing is of a different nature from the taxing in ordinary proceedings in other divisions of the Court?—Yes, there are many things done in the Admiralty Registry which are unheard of in the ordinary courts of law—questions connected with proceedings *in rem*, and many questions which involve questions of taxation, about which, I should say, the taxing master in the ordinary courts would know nothing.

50,855. (*Mr. Coward.*) He certainly would know nothing unless he had acquired the knowledge since?—No, he would not.

50,856. It is very technical?—Highly technical.

50,857. It is very different from that which is done in any ordinary common law action?—Yes.

50,858. It is perhaps not quite germane, but I should like to ask you whether, in your experience, you have ever been before a tribunal which is a better one than that afforded by a registrar and merchants, provided the registrar be up to his work and the merchants able men. I am rather looking at it from the point of view of distinguishing it from a jury?—My answer to that is, no; I cannot imagine a better tribunal.

50,859. You have no hesitation in saying that?—No hesitation at all. I think they do their work with admirable efficiency, and do great justice between the parties.

50,860. Yes; and with great knowledge of the subjects that they approach?—Great. It is remarkable, I think, the way they get through a bill running into many thousands of pounds, and perhaps comprising some 30 or 40 items which, if left to a jury or another tribunal, would take very much longer.

50,861. It may be necessary to dry-dock a ship after a collision, and it costs some hundreds of pounds to dry-dock her, and the question may be whether that was really necessary consequent upon the collision. Is that the kind of thing?—Yes, quite.

50,862. And there is the point I suggested to you before, of determining whether a particular damage to a ship was attributable to the collision or was not?—Quite so.

50,863. Your view is that the registrar and deputy registrar should be barristers and not solicitors?—Yes.

50,864. I am not sure that I should not agree with you, if I may humbly say so, for this reason: The number of practitioners in the Admiralty Court is, comparatively, very limited?—Yes.

50,865. And it is technical knowledge in the position of a registrar that is required, and, consequently, if you were going to select a registrar from the solicitors who practise you would have a very small area from which to select?—That is so.

50,866. Whereas there are a great many men who practise at the Bar, a great many more than there are solicitors?—Yes, undoubtedly.

50,867. And the area of selection would be very much greater?—Yes, I think it would.

50,868. You are yourself very much engaged at the present time, and have been for years past, in acting as a judge?—As an arbitrator, and in that sense as a judge.

50,869. That is, as a judge determining many of these cases, especially salvage cases?—That is so.

50,870. I do not know whether you would like to tell me, but if you have no objection I should like to know how it is that people prefer to go to an arbitrator rather than to the Court in cases of this kind. Does not it strike you as peculiar? There is something that wants explanation?—Now I am travelling away entirely from the functions of the registrar, and am on much more delicate ground, because it is rather a comparison between whether the shipowner would sooner have his salvage case adjudicated upon by a member of the Bar, who has to act as arbitrator, or by the judges of the Division—that is what it comes to.

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50,871. That is right?—Whether they prefer the arbitrator to the judges or not I am not sure; but I can say this: that a good many of them like an arbitrator because the proceedings before him are not fettered by technical rules of evidence. The agreement of reference, as a rule, when a salvage case is referred to an arbitrator, is drawn up in such terms that the arbitrator is entitled to take any form of evidence, and to admit any class of evidence. Then, in addition to that, not being fettered by the general work of the court, he can fix upon a date which will suit the convenience of the parties. Moreover, a great many facts which are put before an arbitrator, who as a barrister practising in the court has had very great experience in the work, are statements merely made upon paper without a witness being called at all; for instance, the plaintiff states his case upon a bit of paper and the defendant states his case upon a bit of paper, and each party trusts to the knowledge of the arbitrator to do justice between the two without having witnesses called, and examined and cross-examined. The result of that is that a very great deal of expense is saved to the parties. Then, if a case goes into the Admiralty Court, in addition to the calling of witnesses there are all the expenses incidental to the pleadings and the interlocutory and preliminary matters, and it is always considered essential that you should have a leader and a junior to conduct the case, and counsel expect to be paid. If you go before an arbitrator these preliminary matters are entirely done away with; there are no pleadings, and, as a rule, no witnesses; and very often the solicitor does the work himself and does not employ counsel; and the solicitor who does it is a man who has great experience of the work, and he does it just as well as the Bar would. Those are the reasons which undoubtedly weigh with people in the shipowning world in saying they prefer to have the matter determined by arbitration rather than go into court.

50,872. May I venture to add one suggestion? Is not the fact that they get more uniformity of decision another great factor?—I was going on to say this: One does not like to criticise anybody, be they judges or anybody else, and I am not going to do so, but undoubtedly the personal equation does come in, and a shipowner will say, "Mr. Justice So-and-so on the last occasion gave me a rather poor award. I am a salvor and I will not go before him." Another will say, "I do not care about Mr. Justice B; on the last occasion I thought he was extravagant." Therefore they go before an arbitrator whom they both agree in choosing, so that they are not at the risk of having either A or B; they choose their own man, and they say, "We think, on the whole, in our view, he does substantial justice, and we will have him."

Mr. EDWARD WILLIAM HANSELL, called and examined.

50,881. (Chairman.) You are a barrister of the junior Bar?—Yes.

50,882. Your practice mainly lies in the Bankruptcy Court?—Very largely.

50,883. The Commission has already had evidence as to the number of registrars and the constitution of their offices, and we need not trouble you, therefore, to repeat the facts on that point. We would rather ask you questions on matters of opinion. The present system of appointment of the registrars is, that they are appointed by the Lord Chancellor?—Yes.

50,884. There is no statutory qualification for the office, but as a matter of practice they have been, up to the present, barristers?—I believe that is right. I have not been able to find any statutory qualification.

50,885. Do you find the results of the present system of appointment satisfactory?—Quite, as far as the registrars are concerned.

50,886. You find that the work of the registrars is done in a thoroughly satisfactory manner?—Efficiently and well, I think.

50,887. Are you speaking of the Companies (Winding-up) branch as well as Bankruptcy?—I had not that in mind at the moment, but purely the Bankruptcy part.

50,873. And, "We shall get a fair decision both ways"?—That is so. I do not for a moment want it to be thought that I am criticising the work of the judges who do the work in the Division; but I put it entirely on this ground, that certain shipowners and certain underwriters say, "We would sooner have an arbitrator" for reasons which commend themselves to them, and they select their own judge.

50,874. A fair man?—Yes.

50,875. (Sir John Kempe.) I suppose the arbitrator's decision is registered, or something of that kind?—Yes; and if need be it can be made a Rule of Court, as it is called, and enforced. It is just as binding in its effect as a judgment of the Court.

50,876. Are the Slave Trade bounties settled in the Admiralty Court. Mr. Rothery used to do the Slave Trade bounties?—Not to my knowledge. In my experience that topic has never come up.

50,877. It may be Treasury work?—That may be.

50,878. (Mr. Shipley.) As far as you understand, the first and second class clerks in the Admiralty Registry cannot become assistant registrars or registrars because they are forbidden to become barristers by the Inns of Court, who will not allow them to enter. Is that true?—I do not know. The latter part of your question is: "Is it true that they are not eligible to be called to the Bar"?—

50,879. Yes?—I think it is highly probable that is one of the rules of the Inns of Court.

50,880. What sort of reason would they give? It seems rather harsh to stop these fellows advancing. Some of them are very able men who have taken high honours at the universities?—There are certain rules of the Inns of Court which perhaps are not always founded on the best of reasons, and which are very much in the nature of trade union rules passed for the protection of a certain class of people. I am not certain that it is a rule, but I think it is highly probable that it is; and it may be that for some reasons which have commended themselves to that class of body they have thought that perhaps it is undesirable that these clerks, who are constantly in the habit of being with the solicitors' clerks in the conduct of these cases, should suddenly be promoted to these very important judicial offices. That may be a reason for disqualifying them from becoming registrar or assistant registrar. Then the reason for saying, "No, you shall not become a barrister," is that it is sometimes thought men of that class being thrown so closely amongst solicitors' clerks might have an undue preference, so to speak, and get an undue hold over the solicitors' clerks, and so obtain barrister's business in a way which is not considered desirable. But that is mere supposition on my part, and it is really a matter on which I cannot speak with any authority.

50,888. Have you practised in the Companies (Winding-up)?—Sometimes, but not very extensively. I think from such experience as I have had in the Winding-up Department the bulk of the work goes before the judge, that is to say, I think the registrars in Winding-up, at any rate as a rule, determine nothing like the number of questions, or such important questions, as they determine in Bankruptcy.

50,889. In the Bankruptcy Department the registrars deal with a very large number of cases without their going to the court at all?—Yes, in London.

50,890. You consider the present system of appointment, and the present practice as regards qualification, is satisfactory?—Speaking from about 30 years' knowledge of the court, I should say, certainly it has been very satisfactory, taking it as a whole.

50,891. You do not suggest any variation of it?—I think not. I cannot think of anything that would improve the efficiency of the London Court.

50,892. With regard to a good many of the higher legal offices, such as masterships and registrarships, the question has been raised whether barristers or solicitors are more suitable persons to appoint. In the present case what is your opinion?—My opinion is, that it is a post that should be filled by a barrister, because in a

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very large number of cases the registrars have to decide upon evidence and upon the admissibility of evidence, things which barristers as advocates have to learn perhaps more than solicitors. In other words, it is a really judicial office, that of registrar, to a large extent. Take, for instance, a petition to make a man a bankrupt; he may have to decide upon complicated evidence, either oral or written, in the manner that a judge would decide.

50,893. Your suggestion is that the barrister's work is the better training and preparation for work of that kind than the work of a solicitor?—That is my submission.

50,894. As regards the staff of the offices, they are also appointed by the Lord Chancellor?—Yes.

50,895. Have you much contact with the office staff?—I have a good deal of contact with part of the office staff; that is to say, a certain amount with the clerk to the senior registrar, who is a first class clerk—the only one they have got—Mr. Bradford. I have a great deal of contact—daily contact, I may say—with the registrars' clerks, of whom there are four in Bankruptcy, and also with the clerk in attendance on the judge and in the Court of Appeal. Mr. Roper is the present holder of that office.

50,896. On what sort of matters do you come into contact with those clerks?—The chamber work in London is done in a room, and there is an outer room where people assemble, and where solicitors' clerks and other people come to the registrars' clerks with their petitions or bankruptcy notices, or whatever they may be, and they have to see that they are in order, and that they are in accordance with the recent decisions, and fill up the forms, and while one is waiting there one sees a great deal of the way in which the registrars' clerks deal with the different people who go to them.

50,897. Then it is not that you yourself have any business that brings you into touch with the clerks, but rather that happening to be there for your own business you see what is being done by the clerks?—I think that is true, but I often have an opportunity of talking with them, and if I was waiting they might ask me about a recent decision, or things of that sort. I may say that I know all four of them very well.

50,898. Do you consider that the present system of appointment gives satisfactory results?—Certainly. In my experience these clerks are extremely courteous and helpful to the members of the profession who want assistance, and as far as I have had an opportunity of testing them they are efficient in their knowledge. They keep up their knowledge of the law as it progresses and alters with the new Acts and decisions. I have often had opportunities of talking with them on different points, and I have found them always very up-to-date, if I may use the expression, in their legal knowledge in their department.

50,899. (*Mr. Coward.*) Knowledge of the Bankruptcy Act and the rules that would be?—Yes, I am confining myself to that.

50,900. Not law generally?—I did mean a little more than the Bankruptcy Act and rules, because very often, as you know, there are an enormous number of points that arise under the guise of bankruptcy proceedings, both of law and equity, and I find they very often ask me questions outside what I might call the clerical part of it.

50,901. Stoppage *in transitu*, and that kind of thing?—I am not sure I remember that particular point, but more likely about trust-property and things of that sort. I want to say with regard to them that my experience is that they do not confine their energies to the purely mechanical part of their duties. As a matter of fact, two of them are members of the Bar, have passed the examination and have been called by the Middle Temple. Two of the present four registrars' clerks are members of the Bar, and the clerk to the judge is also a member of the Bar.

50,902. (*Chairman.*) Do you consider that in any case persons who have worked their way up as clerks in the office should be eligible for appointment as registrar?—No, I think not.

50,903. You think it is better to take the registrars from among barristers in practice outside?—I think so.

50,904. You think that the experience and work of a clerk would not fit him for the work of a registrar?—I think not. I think I am right in saying that the three clerks who are now members of the Bar—I know it is so in the case of one—have become so since they were clerks, in comparatively recent times; they were not barristers appointed clerks, but were clerks first and then took the examinations.

50,905. We have been told that the Inns of Court do not permit clerks in legal departments to be called to the Bar. Can you say how that stands? It appears that in the bankruptcy offices there are some gentlemen who have been called to the Bar while they were clerks in the office?—I cannot at the moment give you the names of any particular offices in which the benchers have refused to call persons who held such an office, but I know as a bencher of my own Inn that such questions do arise. I am not at all sure that there is quite a uniform practice among the four Inns of Court about that. All I do know is, that the three cases which I have in mind, which I have already mentioned, were all called, I think I am right in saying, by the Middle Temple. That is not my Inn and I cannot say what their practice is.

50,906. At your own Inn is there any general rule against the calling of members of the clerical staff of a legal office?—I think each case is decided according to its own circumstances, but I think I am right in saying that the general trend of opinion is, not to call to the Bar persons who are holding offices somewhat similar to the ones I am speaking of.

50,907. Can you tell us what is the reason of that rule, or rather of that practice, since you say it is not a definite rule?—I think there is no definite rule. So far as my short experience as a bencher is concerned each case is decided on its own facts and circumstances. I think the general test is to apply the rule in the Consolidated Rules of the Inns of Courts, which exclude a very large number of professions as being incompatible with the work of a practising barrister, and I think it depends really upon the construction of that rule.

50,908. (*Mr. Coward.*) And businesses, too?—Certainly.

50,909. (*Chairman.*) Is it part of the duty of the registrars to sit in court under the judge?—Yes. There is a registrar in attendance when the judge sits, and a registrar in attendance when the Court of Appeal sits in Bankruptcy.

50,910. Is that attendance of the registrar in court necessary?—You must have some responsible person to record the order of the judge. For instance, you may have a motion before the Bankruptcy judge with very considerable detail arising in drawing up the Order-Injunctions and what not. I think you must have some responsible person to record that, and to see that the order is drawn up in accordance with the judgment.

50,911. (*Mr. Coward.*) Somebody to take a shorthand note?—Then the registrar would have to decide upon the shorthand note what the form of the order ought to be in case of dispute. I should have thought it was better—I am afraid I have not considered this point—that he should hear what the judge said and take his own note of the judgment and the order, as he has ultimately to decide upon the form of it.

50,912. (*Chairman.*) But complicated orders are in the minority?—In Bankruptcy, I think so.

50,913. The question is this: Is it necessary to have an officer of the calibre of a registrar to sit in court through the whole of the cases that are tried, because occasionally there may be a complicated order in which there may be some advantage in his having been present at the trial of the case?—I almost doubt whether it is necessary to have an officer of the calibre of a registrar, but you must have a thoroughly responsible person there. The only alternative, I suppose, would be to make the clerk to the judge responsible for taking the note of what the judge decides in the course of the case.

50,914. In some cases the registrar and the clerk are both present in court?—Nearly always. The clerk is always in attendance unless the Court of Appeal happens to be sitting at the same time as the Bankruptcy

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judge, which is avoided as much as possible. The normal thing is to have a registrar in attendance, and also the clerk to the judge in attendance. Perhaps I might add that I have found in my experience very frequently both the judges of the Court of Appeal and the Bankruptcy judge consult the registrar on matters of practice about which they would want advice.

50,915. Does that often occur?—Yes, I have often seen it. Naturally, I do not know what passes between the judge and the registrars, but I have often seen the judge and the judges in the Court of Appeal ask the registrar when there has been some little dispute as to what the practice is, because there is a certain amount of practice which is unwritten in Bankruptcy.

50,916. It would be quite possible in a case when a question of that kind arose to send for the registrar?—Quite so.

50,917. Would inconvenience arise in sending for the registrar when such a case occurred?—It would take him off what he was doing in the Bankruptcy Court *pro tem*.

50,918. Otherwise, if he sits in court, it takes him off that work for the whole of his time?—But they arrange accordingly. There is the court-day for the registrar and the time when he is sitting with the judge.

50,919. Is it the practice in that court, when the order is a complicated one, for the judge to direct counsel to settle the minutes?—No.

50,920. Is that never done?—It is never done in that form. What is done is, that the person who has the carriage of the order, or the clerk in attendance on the judge—sometimes one and sometimes the other—draws a draft and submits it to the other side. I have been consulted upon those drafts in conference when there has been a dispute. In case of dispute, in practice an appointment is given before the registrar to settle the order, and the parties attend on either side and say what they have to say. We do not have minutes as they do in Chancery.

50,921. That would seem to meet the case of complicated orders, even though the registrar were not present in court?—Yes, I think it would.

50,922. (Mr. Coward.) But the orders have hardly ever any complication about them, have they?—I should not quite agree to that, I think. Perhaps the most difficult orders that require very great care in drawing are orders which do not come before the Bankruptcy judge, but are things decided by the registrar—I mean vesting orders. They want very careful drawing, because so often the title to property may depend to a large extent upon the order made on disclaimer.

50,923. Those are matters dealt with before the registrar?—The registrar does vesting orders in the High Court.

50,924. So that has no direct bearing on the question of the attendance of the registrar in court?—No, it does not bear on that at all, but only on the point of the complication of the orders.

50,925. (Chairman.) Do you find that the work of the registrars and their officers is organised and carried through in a satisfactory manner?—So far as I have experience of it, it is quite satisfactory; that is to say, I find that the lists are properly prepared, and, as far as possible, the time of everybody is saved. The only practical thing I have ever found any difficulty about is getting transcripts of the shorthand notes, and in that there is sometimes delay. I cannot tell you the reason of it.

50,926. Those notes are prepared by the official shorthand writer, who is not a member of the office, but is employed for that purpose?—I think I am right in saying that there are three shorthand writers, one of whom is appointed in each case where a shorthand note is taken. In all public examinations, for instance, a shorthand note is taken, as of course. There is a form of appointment by the registrar, but it is one of the three who are attached to the Bankruptcy Court. They are called official shorthand writers.

50,927. They are paid by the piece, I suppose?—I think so. They are paid a fee for each case, and by the piece for the transcripts.

50,928. They are not part of the regular official staff of the Registrars Office?—I should imagine not. I took some pains to find out from Mr. Bradford points of detail like that, and he certainly did not mention the shorthand writers as being in any way part of the official staff.

50,929. So if there is delay in obtaining the transcripts, it would appear, *prima facie*, that it might be met by having a larger number of persons so employed?—I think so. I think it is probably due to being short-handed.

50,930. At present there is no age limit for retirement, either in the case of the registrars or their clerks. Do you consider it would be advisable to apply a limit?—In the face of the present constitution of the department, I must answer "No" to that, because the senior registrar, who was appointed in 1848, is as keen and capable as anybody could possibly be in trying the cases. I hesitate to say anything about an age limit with that example before me.

50,931. The Commission have had Mr. Registrar Brougham before them as a witness and are able to judge themselves of his remarkable vigour?—I hope I have not said anything improper, but having had a good deal of experience of him, I know his wonderful capacity and ability, and his faculties are so absolutely unimpaired in every respect.

50,932. But apart from that exceptional case, and speaking generally, do you think it advisable that there should be a fixed age for retirement?—I have had no reason to think so. I have seen a great many registrars of different ages, and I have never thought that there was any case in which an age limit for retirement would have been desirable. That is all I can say about it.

50,933. (Sir John Kempe.) In the *précis* of your evidence, I see you say about the clerks that from both the personal and professional point of view a very high standard has been reached. I suppose that high standard has been reached very much by training in the office?—I am not quite sure, if you mean the Bankruptcy Office. One of the registrars' clerks came, I believe, from the Chancery Division. They come from other departments I know sometimes.

50,934. Do you mean they have all been qualified before appointment? Have all the clerks been appointed for professional qualifications, and are there no exceptions in the first and second class?—I am not quite sure that I have the knowledge necessary to answer that question. I should have said that they have all been appointed either from the Bankruptcy Department itself or from other departments of the High Court. One of the present clerks I know was a barrister's clerk for many years before he went into the Bankruptcy Court.

50,935. When you say it is not necessary that they should be qualified as barristers, you merely mean what you say—that they ought to have professional qualifications but need not be a barrister?—Quite so.

50,936. Then you say, there is no reason why third class clerks should not be capable of promotion to the higher grades—that is the first and second class?—Yes.

50,937. Do you mean by that, that you merely would not exclude them from promotion if good enough?—I mean a little more than that. I have no personal contact, to my knowledge, with the third class clerks. My work would not come directly up against them. But from what I could learn from Mr. Bradford their training is such, and they keep themselves, as far as they can, so efficient in the knowledge and practice of bankruptcy that it would fit them to go on to the higher grades. That is what I meant to express.

50,938. Do you think that the bankruptcy work is more technical than some of the other work?—Yes, it is.

50,939. Therefore you would be rather inclined to keep the professional qualification up for the Bankruptcy Department even if you did not for other departments. You think the Bankruptcy Department requires rather special qualifications?—I think you want rather special training. It has an Act and rules

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of practice of its own, and a certain amount of un-written practice.

50,940. I see you say you object to open competition?—Yes, but I think you want a certain amount of professional qualification. Speaking rather of the higher grades, I think the system of nomination gives an opportunity of selecting a man who is fit in other ways as well as by professional qualifications—I mean in points of temper and management of men, and so on.

50,941. By “professional qualifications” would you include passing an examination in legal subjects. Would not that be sufficient. Supposing in the competitive examination you included legal subjects, would that be sufficient qualification if you get the best men passing in that?—Yes, I think so; if I follow your question. Now they have the Civil Service examination.

50,942. They are nominated?—Yes, but I think they have to pass a certain examination.

50,943. Yes, a very simple examination?—What I wanted to submit to the Commission was that it ought to be a combination of a fairly simple examination plus the power of nomination to select the fittest man in character, and management of men, and so on.

50,944. So you would still exclude open competition even with legal subjects?—I think so.

50,945. (*Miss Haldane.*) You would have an age limit for the clerical class, I suppose?—I am not quite sure that I can say yes to that. Looking back, I have known one or two cases where the clerks have seemed to go on too long—I am bound to admit that, but I do not think I am really competent to express an opinion.

50,946. It would assist promotion very much if there was an age limit?—Yes, I follow that.

50,947. You approve of promoting right up. The promotion would be extremely slow if there was no age limit?—I should not like to express any opinion adverse to the system of an age limit. What that age limit should be is quite another matter.

50,948. (*Sir Donald MacAlister.*) I observe you say in your précis on behalf of the Bar Council that “the present system of nomination to the post of registrar is satisfactory, both as regards personal qualifications and professional experience”—I suppose you mean in regard to the actual results?—That is what I did mean.

50,949. The present system is that of nomination by the Lord Chancellor?—Yes.

50,950. Nomination, pure and simple?—Nomination, pure and simple.

50,951. You did not mean to express the opinion upon behalf of the Bar Council that personal nomination was satisfactory in the abstract?—I thought the question I was asked was, whether the system which was in force at present, which is nomination by the Lord Chancellor, has worked satisfactorily.

50,952. Your statement in the précis was a little absolute, and I understand from you that you meant to say that the present system is satisfactory, because it produces satisfactory results?—I take that amendment.

50,953. With regard to promotion, the present system again appears to be satisfactory, because you say, “Merit and suitability for the post being duly considered, and it is understood mere seniority giving no right to promotion”?—Yes.

50,954. Can you tell us the grounds for that understanding?—I am afraid I cannot give you names, but on making inquiries I understood that there were people who had been promoted, say, to second class clerks, or first class clerks, who were not the absolutely senior men upon the list either of that or other departments; in other words, that there had been a process of selection used which was not prevented by any hard and fast rule that the senior man must necessarily go up.

50,955. Your statement is “seniority giving no right to promotion.” Is not that a little absolute—I mean, you have no positive knowledge on which you can lay that down?—I have no knowledge of it, because only the Lord Chancellor and Sir Kenneth Muir Mackenzie would have real knowledge of that. All I can say is that I made inquiries, principally of the principal clerk in the Bankruptcy Court, and that is what I understood to be the case.

50,956. You would agree with me in thinking that in the matter of promotion merit and suitability for the post ought to be considered as final?—Most certainly.

50,957. And that seniority should not be regarded as conveying the right to promotion?—Yes.

50,958. But you are not perhaps aware that that is exactly the state of affairs in the department at present?—All I can say is that I asked the question before I wrote that document, and I was told that was so; but I cannot, of course, say of my own knowledge. I am not in the official secrets.

50,959. I merely ask these questions because you put this forward on behalf of the Bar Council?—I hope I have answered the questions you put to me.

50,960. In both cases you made enquiries, and that is what you were told?—Yes, that is the result.

50,961. (*Mr. Coward.*) I suppose you have not had experience of the organisation of offices?—No.

50,962. You would not, perhaps, desire to give opinions upon that subject?—No. I think I say at the end of my précis that I am not in a position to do so.

50,963. Therefore I can hardly ask you whether you think the organisation of this particular office is a wise or unwise one. Whether, for instance, there are too many or too few men, or that kind of thing, you can hardly express an opinion upon?—Only about the upper regions of it; that is to say, the registrars’ clerks. The people that I have practical experience of come in number to about six or seven.

50,964. Altogether, including the registrars, there are 18 in this particular department?—I think so. I notice that there is only one first class clerk, whereas in the Companies (Winding-up), where, at all events at present the work is not more arduous, if it is not less arduous, they have two.

50,965. It must be much less arduous?—Yes, much less; and I should like, if I am not doing anything improper, to say that I do think the Bankruptcy Department deserves at least one other first class clerk.

50,966. Or perhaps the Companies (Winding-up) should have one less?—I have not considered that. I have nothing to do with the Companies (Winding-up). All I can hope to assist the Commission upon is as to the people carrying on the Bankruptcy work; and I do think, with the class of work they have to do, it would not be an exaggerated state of affairs if there were at least two first class clerkships to which they might look forward to rising.

50,967. Do you know what hours of attendance they keep there? Surely the number required would depend upon the work they have to do?—Yes.

50,968. Therefore it is very pertinent to ask what hours they have to work?—I do not think I have ever asked any one, except the clerk in attendance on the judge in the Court of Appeal, and I know that he has very often to work till quite late at night getting orders out. I know of that instance.

50,969. What would you call quite late at night?—I mean 6, or 7, or 8.

50,970. The registrars do not work till that time?—I do not know whether they work; they do not sit in court, nor do the judges.

50,971. Nor do their clerks?—They do not sit in court.

50,972. And you would not find them at their offices?

(*Lord Mersey.*) It depends upon the judge. I have known a judge to sit until 7 o’clock?—Yes; I thought Mr. Coward meant in the ordinary way; but many times they have to, and do, sit late.

50,973. (*Mr. Coward.*) I meant in ordinary times?—The present Bankruptcy judge has been sitting late the last two days.

50,974. (*Mr. Graham Wallas.*) A question on the point of the admissibility of officials in the legal departments to the Bar. You realise that that is a matter of importance to this Commission, because part of the reference to us is the qualifications to be required of people for certain posts, and if the qualifications for certain posts cannot be obtained by any Government official, however learned and capable he may be, that becomes an important fact. I understand you to say

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Mr. EDWARD WILLIAM HANSELL.

[Continued.]

that the Consolidated Rules of the Inns of Court exclude the admission of certain professions and businesses to the Bar, and that one of those professions and businesses is that of a Government official?—I did not say that. I said I could not remember, without the rule before me, exactly what the list did include.

50,975. Are those Consolidated Rules accessible to the public?—I think so.

50,976. Whether there is actually a rule or only a practice, in what way would you yourself defend that practice from the point of view of the public interest?—Because I do not think a man can efficiently practise at the Bar and be at the same time engaged in the active pursuit of a trade or business, or give his proper attention as, say, a clerk to a local authority, or something of that sort. It seems to me that the two things are incompatible.

50,977. That, although he may, in fact, be concerned with judicial business, there never can come a point in which the local authority, having employed him as a clerk or official, may proceed to employ him later on as a barrister, if he is admitted?—I am not sure I follow the question.

50,978. There are certain officials who are barristers; they are appointed from outside. I am thinking of a case where an official, who is already in the Service, employed, not as a barrister, proposes to be created a barrister, and then to be employed as a barrister. In that case, after being made a barrister, he would be employed as a barrister, so he would not then be engaged in an occupation which is inconsistent with his practising at the Bar?—I think it would be most undesirable that an official of a public body should be employed as a barrister in any case in which that public body was concerned.

50,979. There are barristers in the various legal divisions of public departments who give legal advice, and so on, without practising in the courts?—Certainly, in Government offices.

50,980. *Ex hypothesi* they are not engaged in a professional position which is inconsistent with their practising at the Bar?—No.

50,981. Then why should not a man be promoted to such a post, and at the same time be admitted to the Bar?—I do not think I have said that there is any reason why a man who had got a post of that sort should not be admitted to the Bar. On the contrary, I was given to understand that there were three cases in this particular court where, after they had become officials, the three men have been called to the Bar by one of the Inns of Court.

50,982. I thought you told us all those three cases represented the decisions of the Benchers of the Middle Temple, which were inconsistent with the practice of the other Inns of Court?—No, I did not say anything about it being inconsistent. What I said, or intended to say, and what I hope I did say, was, that it so happened that the three cases I was speaking of were cases of persons who had been called by the Benchers of the Middle Temple, and that since I have been Bencher of another Inn I have had no similar cases brought to my knowledge.

50,983. (*Lord Mersey*.) Are you thinking of one case—*Mr. Roper*?—Yes.

50,984. (*Mr. Graham Wallas*.) Then you would say that it is not the case that there is a widely-spread practice amongst the Benchers to refuse admission to the Bar to a person who, at the time of his seeking admission, is a Government official or a municipal official?—No. I said, speaking for my own Bench, for which alone I can pretend to speak, we consider each case upon its own circumstances.

50,985. Are you guided by no principles?—I think we are.

50,986. All cases decided upon their own circumstances are decided upon those circumstances in relation to some principles. What I am trying to get at is, the principles which govern your decision with regard to the circumstances of each case?—There are certain tests laid down in the Consolidated Rules. If those circumstances were not complicated, I apprehend, speaking only as to my own opinion, that the principle is: Is the particular office which the applicant for call to the Bar holds incompatible with his practise of his profession as a member of the Bar.

50,987. What I want to deal with is the question what happens where the office that he may at the moment hold is so incompatible, but the office to which it is proposed to promote him, if he is called to the Bar, is not incompatible. Obviously the rule you have just laid down would not apply to that?—If he has already been called to the Bar, he must consider whether the office which he proposes to accept is one which he can accept, having regard to the obligations which he entered into when he became a member of the Bar and was called.

50,988. If the man says: "I am now in the employment of a certain kind of Government office, and I propose, if called, to enter upon another kind of Government office, which, in practice, is held by barristers," there would then, in your judgment, be no objection to his being called?—(*Lord Mersey*.) You must ask your Treasurer. (*Witness*.) I think that is the best answer I can give.

50,989. (*Mr. Graham Wallas*.) As a member of the public you have not any opinion as to whether these rules are good or bad?—I think they are all good.

50,990. What are they?—I have not got them with me, and they are very long, but I have never seen one I have had any occasion to quarrel with.

50,991. (*Chairman*.) The taxation of Bankruptcy proceedings is at present done in the offices of the Bankruptcy Court?—Yes, there is a separate taxing master who does nothing else.

50,992. A question has been raised as to whether that is the right system, or whether the taxation of the Bankruptcy proceedings should be transferred to the Central Taxing Office?—I think not, for this reason: The ordinary taxing rules—for instance, I have one in mind, that if a bill has one sixth taxed off, a certain result follows—do not apply to Bankruptcy taxations, which are governed by their own code and their own scale, which is quite different from the ordinary scale in other branches of the High Court.

50,993. You think it, therefore, more convenient that the Bankruptcy taxation should remain where it is?—I think so.

ONE HUNDRED AND TWENTY-FOURTH DAY.

Thursday, 25th March 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.
Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.
Sir DONALD MACALISTER, K.C.B.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. JOHN ROBERT CLYNES, M.P.

Mr. CECIL COWARD.
Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Sir CHARLES FORTESCUE BRICKDALE (Registrar of the Land Registry), called and examined.
Mr. C. T. MUSGRAVE (Assistant Registrar) and Mr. PERCY LEE (Assistant Secretary to the Registry) were in attendance.

50,994. (*Chairman.*) (*To Sir Charles Brickdale.*) You are the Registrar of the Land Registry?—Yes.

50,995. And Mr. Musgrave is assistant registrar?—Yes. I should explain that there are three assistant registrars. The first assistant registrar is ill, and cannot be here. Mr. Musgrave is the second one.

50,996. You have been good enough to give us, in the précis of your evidence, a brief history of the office. The most convenient plan, I think, will be to put that upon the notes?—Yes.

HISTORY OF THE OFFICE.

The Land Registry was founded in 1863, under the Land Registry Act, passed by Lord Westbury in 1862, for the purpose of rendering dealings with land simple, cheap, and expeditious, by substituting a public register of ownership of land and incumbrances, similar to the registers of shares and stocks, for the cumbersome, dilatory, and expensive system of private conveyancing. This Act was of an experimental character, it being left to the voluntary initiative of the individual landowner to adopt the Act or not as he pleased. Not very much work was done under this Act, and in 1875 the system was somewhat altered and the office reconstituted under the Land Transfer Act of that year, passed by Lord Cairns; but the initiative was still left to the individual landowner, and the result, as regards work done, remained much the same as before. In 1897 Lord Halsbury succeeded in passing an Amending Act, which introduced a mild form of compulsion, giving the several counties power to accept or to invoke compulsory registration in their own areas. London accepted the Act in 1899, and thereupon a great enlargement of the department took place, the staff growing in a few years from about 20 to about 250.

Meanwhile, in 1888 and in 1891, two additional departments had been added to the registry. The first of these was a small department for registration of certain charges on land, such as executions, pending actions, and annuities. The second was the addition of an existing institution called the Middlesex Registry of Deeds, which had theretofore been conducted as a separate office under an Act of 1708, for entering particulars of all deeds affecting land in that county. Similar registries exist in the three Ridings of Yorkshire, but are managed by the several county councils.

THE CONSTITUTION OF THE OFFICE.

The constitution of the Land Registry Department is regulated by Part V. of the Land Transfer Act of 1875. It is there enacted that the business of the office is to be conducted by the registrar, who is to be appointed by the Lord Chancellor, with such assistant registrars, clerks, messengers, and servants as the Lord Chancellor, with the concurrence of the Treasury as to number, shall appoint. The registrar must be a barrister of 10 years' standing; assistant registrars must be barristers or solicitors of five years' standing. Salaries are to be as directed by the Treasury, and are to be paid out of money provided by Parliament. The Lord

Chancellor makes rules as to practice, with the advice and assistance, originally, of the registrar only; but, since 1897, a judge, a barrister, a solicitor, and a representative of the Board of Agriculture have been added. The rules have statutory force, and must be laid before Parliament. Besides his statutory relationship, the Lord Chancellor has always acted as the administrative and Parliamentary head of the department. The registrar reports to him from time to time as to the department's affairs, and has the privilege of applying to him for directions, advice, and assistance in regard to any matter which is of sufficient importance to justify it.

THE WORK OF THE OFFICE.

As appears from what I have already said, the work of the office is in three divisions:—(1) Registration of Title to Land under the Acts of 1862, 1875, and 1897; (2) The Middlesex Registry of Deeds under Acts of 1708 and 1890; and (3) The Land Charges Registry under Acts of 1888 and 1900. I will describe them in their order.

1. *Registration of Title* falls into three main divisions:—

- (i) First registration with absolute title.
- (ii) First registration with possessory title.
- (iii) Dealings with land after first registration.

(i) *First Registration with Absolute Title.*

In these cases the applicant's title is investigated by us just as if we were purchasers on a sale. Documents perused, requisitions made, answers considered, and so on. In addition to that we make a plan of the land on the largest scale ordnance map. If and when we are satisfied, the title is accepted, notice is given in the Gazette for a month, and if no objection is made the applicant is entered as proprietor on the register, and the title is thenceforth guaranteed by the Government. Future purchasers and mortgagees can rely upon it without the trouble, expense, and delay of investigating it themselves. A land certificate, being a copy of the register and of the plan, is issued to the proprietor, and becomes his evidence of title. It can also be deposited as security for a loan.

I need not dwell on the responsible nature of this part of the work. It obviously requires professional knowledge and care of the first quality to prevent liability to the Government, but it requires moderation also to prevent unnecessary expense and trouble to the applicant. On the due balance of these two elements the success of this part of the work depends. Formerly it was entirely done by conveyancing counsel of the highest standing outside the office, whose fees (in addition to the registration fee) the applicant had to pay. Now it is almost entirely done inside the office, the cost being included in the registration fee. Since this change this part of the work has very much increased and is still increasing—2,700 absolute titles were examined and approved in 1914, notwithstanding the war.

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[Continued.]

(ii) *First Registration with Possessory Title.*

This is like first registration with absolute title, except that our investigations cease when a *prima facie* title is established. It does not convey an immediate Government guarantee. But all future dealings have to take place on the register, and are guaranteed, and so in process of time the absence of the original guarantee becomes immaterial. In London this form of registration is compulsory on sale, and we have between 6,000 and 7,000 such registrations every year.

When a possessory title has been registered a few years, we are usually able to make it absolute on very little additional evidence. This work, though less responsible than the guaranteeing of absolute title, requires a good general knowledge of real property law in order to make the register complete and useful and to avoid mistakes.

(iii) *Registration of Dealings after First Registration.*

Having constructed the register of title, it has to be kept continually up to date, by alterations corresponding with the sales, mortgages, leases, settlements, deaths, bankruptcies, and so on, that take place from time to time. About 22,000 such transactions take place annually. Of these a certain number present difficulty, and need skilful treatment, though the majority are simple, and only require care and a moderate amount of legal knowledge to deal with them adequately. But unfortunately real property law is a rather devious subject, and an apparently simple document will sometimes give rise to troublesome questions, especially when you have to define its effect in relation to what has gone before and what may follow after. Moreover the Government is pecuniarily responsible for the correctness of the interpretations put upon deeds by the registry.

Thus a certain amount of skilled supervision is also necessary even where simple transactions are being treated.

The Mapping Branch.

Along with the purely legal side of the work there is a large and important branch of the registry in which a special study is made of those portions of deeds which relate to the *description* of the land dealt with. A precise and accurate description, by plan, of every registered estate is one of the special and most popular features of the registry system. But it involves a great deal of work in the department. This arises from two causes. One, the generally defective and often inaccurate descriptions of land given in ordinary deeds; the other, the usually backward state of revision of our otherwise admirable ordnance survey maps.

Old deeds (except leases) very seldom have plans on them. Where plans are used they often leave serious ambiguities when applied to the facts on the ground or to the corresponding portions of the ordnance map. Where a deed contains a verbal description as well as a plan, it is no uncommon thing to find them disagreeing with one another or with the land or with the ordnance map. All these discrepancies have to be cleared up before registration can proceed. Further, as alterations are constantly taking place, and the ordnance maps are only revised at long intervals—10 or 15 years at the smallest—it is necessary for us to have a staff of surveyors always at work keeping those maps up to date. Plans are required often within a few days of the alterations taking place, so our surveyors have to work rapidly and for the most part without supervision on the ground.

2. *Middlesex Registry.*

Registration of a deed is effected by leaving it at the registry with a "Memorial," which may be either a copy or a note of certain particulars, of which the chief are the date, the parties, and the land dealt with. The memorial is officially checked with the deed; the name of the grantor is entered in the name index, the land affected is entered on the map index. This takes about three days, after which the memorial is filed and the deed is returned to the applicant. The function of the registry is merely to prevent fraud by the suppression of deeds. It is not concerned with the effect or contents of deeds. Consequently the work is, on the

whole, of a simpler and less technical character than registration of title, and comparatively few questions arise in its administration. About 25,000 registrations are made annually and about 13,000 searches.

3. *Land Charges Registry.*

This is a registry of notes or notices of various matters, such as pending actions, executions, annuities, improvement charges, and so on, which are burdens on land. Registration is effected by merely leaving at the office a note of the particulars of the charge, which note is filed and indexed against the name of the person whose land is to be charged. It is not verified or checked in any way with the original documents creating the charge.

1,300 registrations, 6,000 official searches, 32,000 unofficial searches annually.

50,997. It appears from this that the work of the office covers three distinct branches?—Yes.

50,998. In the first place the office registers the title to land under the Acts of 1862, 1875, and 1897; in the second place it is the Middlesex Registry of Deeds; and in the third place the Land Charges Registry?—Yes.

50,999. Should I be right in saying that the first of those three divisions is the most important and gives the largest amount of work?—Yes, by far.

51,000. That branch of the work includes registration of several kinds—registration of absolute title, registration with possessory title, and also further dealings with the land after registration?—Yes.

51,001. With regard to the branches of the work under that head, should I be right in saying that the first registration with absolute title is the most important and the most difficult?—Certainly.

51,002. In that branch of the work it is necessary to scrutinise the whole of the title to land as a conveyancer would scrutinise it?—Exactly.

51,003. And to determine whether the title is sufficiently good to be registered as an absolute title with a Government guarantee?—Yes.

51,004. That part of the work requires a skilled and accurate knowledge of conveyancing?—Yes.

51,005. And of the whole subject of land tenure?—Yes.

51,006. In connection with that branch of the work there is also a large amount of mapping to be done?—There is. The principal description of all registered property is by map founded on the largest scale ordnance survey map brought up to date by the Land Registry surveyors.

51,007. Your topographical basis is the ordnance survey, but any changes arising from time to time and the indications of the exact boundaries of a particular property are done by your mapping staff?—That is so.

51,008. Have the mapping staff also work in connection with the other two branches of the office—the Middlesex Registry and the Land Charges Registry?—In connection with the Middlesex Registry certain members of the staff have been detached to form a department, during the last two or three years, of the Middlesex Registry to identify all the lands that are dealt with in the Middlesex deeds on a prepared map of the county; but the Land Charges Department does not employ any mapping staff.

51,009. Does that department register charges on property which has already been registered in the registry?—There is no connection between the Land Charges Registry and the Registration of Title. They are under separate Acts altogether.

51,010. Then a charge may be registered on any land whatever the method by which it is held?—Yes.

51,011. In the case of the registration of a charge on land, how is the land identified?—Merely by verbal description.

51,012. No map is necessarily recorded in that case?—No.

51,013. The Commission have before them the statement which we have placed upon the notes, and, therefore, at the present stage I do not think we need go further in detail into the nature of the work. No doubt

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(Mr. C. T. MUSGRAVE and Mr. PERCY LEE were in attendance.)

[Continued.]

further questions will arise upon that subject as we go on. Will you tell us next what the staff of your office consists of, and how it is distributed between the different branches of the work. At the head of the office there is yourself as registrar?—Yes.

51,014. You have two assistant registrars and one acting assistant registrar?—That is so.

51,015. The salary of the registrar is 1,500*l.* a year?—At present. It begins at 1,200*l.*, and after three years it rises to 1,500*l.*

51,016. And the salary of an assistant registrar is 850*l.*, rising by 25*l.* a year to 1,000*l.*; and the salary of the acting assistant registrar is 700*l.*?—Yes.

51,017. Can you say why an acting assistant registrar and not an additional assistant registrar is appointed. Is the work of the acting assistant registrar the same as that of the other assistant registrars?—It is, as a matter of fact, exactly the same, and his position and authority in the office is exactly the same as the other two, but the formation of the office has been rather a gradual matter. We have had to apply from time to time for the establishment of the different offices, and when I applied for this particular assistant registrarship the Treasury thought it would be sufficient if he was called acting assistant registrar, and placed on a different level as regards salary.

51,018. Was that because there was some doubt as to whether the work would continue so great in volume, and therefore entail a permanent appointment?—It is possible that that was the reason.

51,019. You have, I think, nine first class clerks?—Yes.

51,020. Some on a scale of 500*l.* a year, rising by 25*l.* a year to 600*l.*, and others on a scale of 450*l.*, rising by 20*l.* to 600*l.*?—Yes.

51,021. How did those two different scales arise?—The original first class was the same as in the Law Courts, 500*l.* to 600*l.*, but a few years ago I asked for an expansion of the first class, and a slight difference in the commencing salary was arranged by the wish of the Treasury.

51,022. As things are at present, future appointments to the first class will be on the revised scale, beginning at 450*l.*?—I think probably so.

51,023. Then you have 12 second class clerks on the usual scale in the legal offices, 250*l.* a year, rising by 15*l.* a year to 400*l.*?—Yes.

51,024. And you have 14 third class clerks who are on the same scale as the scale in the other legal offices?—Yes.

51,025. You also employ a considerable number of assistant clerks?—38.

51,026. Have you some temporary clerks?—We have eight temporary clerks at various rates of pay, not exceeding 2*l.* 10*s.* a week.

51,027. What is the reason for the employment of the temporary clerks?—They were introduced about 1909–10 originally to help us with the large amount of *quasi* professional work that was required in the examination of absolute titles, which were about that time beginning on a larger scale than before, and we found them useful, and they have been added to from time to time.

51,028. Was the view taken that there might be a volume of work which was not permanent?—Yes. It was rather experimental when it began, and I am hoping that soon its permanence will be recognised, and that these gentlemen will be given permanent posts.

51,029. If the work proves to be permanent, you will be in favour of providing for it by a permanent staff and not by temporary employment?—Certainly.

51,030. Those are the principal classes of the staff apart from the Map Department?—Yes, they are.

51,031. What is the division of this staff between the different branches of your work? You have one branch dealing with the first registration of absolute title?—Yes.

51,032. What is the staff allotted to that branch?—There are two assistant registrars and one acting assistant registrar; two first class clerks who, I may say, are taken in rotation, as I like to have all the first class clerks taking this work in turn, because it is

useful that they should get experience in it; and three temporary clerks of the class I was just speaking of. That staff of eight persons is what is normally employed on the registration of absolute title; but, as the bulk of the work fluctuates, sometimes it may be one or two less and sometimes even one or two more.

51,033. Would that variation be in the number of first class clerks employed?—Yes, the number of first class clerks, or a temporary clerk or two sometimes.

51,034. Are the assistant registrars and the acting assistant registrar employed exclusively on this branch of the work?—It is the main part of the work that they are now employed upon. Matters do get referred to them with regard to all parts of the work of the office, but their staple occupation is the examination of absolute title.

51,035. And none of the staff below the first class is attached to that branch?—Not to any great extent. I take the opportunity sometimes of exercising the second class clerks in examining titles by way of helping the others and educating themselves, but I think you may take it that in a general way those officers I have named in that division are the only ones whose time is principally occupied on absolute titles.

51,036. What staff is employed in dealing with the first registration of possessory title and the registration of dealings with land?—There we have four of the first class clerks, who are also moved in rotation, sometimes to the absolute title work; 10 second class clerks, three third class clerks, three temporary clerks, nine assistant clerks, and four attendants.

51,037. The work in that branch is, I suppose, much less difficult and important than the work in the first branch which you spoke of—the registration of absolute title?—It is of much less difficulty and importance, although points arise from time to time requiring considerable knowledge of real property law to deal with it safely and correctly; but the general average of the work is of a simpler character.

51,038. In registering the possessory title the validity of the title is not examined?—It is only examined to a certain extent. We have to see that the applicant has, at any rate, a *prima facie* title; that is to say, he produces a conveyance to himself which has to be regular within its own four corners, and he produces his other documents of title, and these are glanced at just to see that they appear to be the sort of documents that such a person ought to have, and that incumbrances have not been concealed; but their contents are not rigidly examined.

51,039. You look to see whether there is a *prima facie* case to show that he is actually in possession of the land in a normal manner. Does that describe the process?—That is it; but it is not rigidly tested.

51,040. Apart from that *prima facie* scrutiny, the work consists in the acceptance and recording of documents, and the verification of the proper description of boundaries, and so forth, I suppose?—That is on first registration, but the registration of dealings, which also forms a very large part of the work of this part of the staff, consists of perusing and registering the effect of the various transfers and mortgages, leases, wills, and other documents, which come in for registration after the land has been placed on the register. The register has to be always kept up to date so as to show the existing state of the title and nothing else.

51,041. When land has once been placed on the register, is it obligatory to record all further dealings with it?—Yes, it is obligatory in the sense that if you buy a registered estate and omit to register your conveyance, you run the risk of losing it, because you leave it in the power of the registered proprietor to deal with somebody else.

51,042. If you buy a registered estate and the previous owner has omitted to register some will or other matter affecting it, has that any effect on the title of the purchaser?—An unregistered instrument dealing with registered land has no effect on the title of a registered purchaser from the registered proprietor.

51,043. The compulsion arises in this way: a purchaser can absolutely neglect and leave out of account

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any document which has not been registered after the land has once been registered?—Exactly.

51,044. Is it entirely at the option of the person bringing land to be registered whether he registers a possessory or an absolute title?—Yes.

51,045. From the figures which you give, I gather that the number of cases of registration of possessory title is much greater than the number of cases of registration of absolute title?—That is so.

51,046. Is that proportion changing? Is there a tendency to register a larger proportion of cases with absolute title?—Yes, the proportion of absolute titles registered has increased definitely every year since the Rules of 1909, which gave greater facilities for doing it than existed before.

51,047. May it be said that the policy at present is to encourage registration with absolute title?—Certainly.

51,048. And to assimilate the cost of registration of absolute title to the cost of registration of possessory title?—Yes, we have brought it now to the point that there is hardly any difference. The fees are the same, the official charges are the same, and it is only very rarely that there is any additional cost in registering an absolute title as compared with a possessory title.

51,049. At present in what parts of the country is the registration of title obligatory?—In the County of London only.

51,050. What is the form of the obligation there?—A registered purchaser omitting to register loses the legal estate. He cannot get the legal estate until he is on the register; so, although the conveyance purports to give him the legal estate in the land, that is inoperative until he has been entered as proprietor on our register.

51,051. Does that mean that if the former owner took proceedings to get the land back again he could get it back if the conveyance had not been registered?—I believe the effect is to leave the legal estate in the former owner as a trustee for the purchaser until the registration has been effected, and on the registration being effected the legal estate vests in the purchaser, according to the deed.

51,052. The practical effect of that is that all transactions in land in London have to be registered?—Yes, it is practically invariable.

51,053. In the rest of the country is it entirely optional?—Yes, except in the case of purchases by county councils under the Small Holdings Act. Registration in the Land Registry is obligatory in all those cases.

51,054. Do the operations of the registry extend to the whole of England and Wales?—Yes.

51,055. But not further?—Not further.

51,056. And in England and Wales outside London is there any means of introducing compulsory registration?—The means provided by the Act of 1897 are that any county council may pass a resolution calling upon the Privy Council to make an order for compulsory registration; and if they pass that resolution, then the Privy Council can make an order, the effect of which is to bring the compulsory provisions into force in the county, or, it may be, part of a county.

51,057. How long has that provision been in force?—Since the 1st January 1898.

51,058. Have any county councils made application?—I am sorry to say that no county council has made an application.

51,059. Has there been any indication that they are likely to make, or that there is any movement in the direction of making application?—One county council on the motion of the Chairman and with the support of the Lord Lieutenant of the county mooted the question some years ago; but a considerable opposition was met with, and it came to nothing.

51,060. Do you anticipate that in future there will be any extension of compulsory registration? I am asking about this point because, although in itself it is somewhat outside the scope of the Commission's inquiry, it has a very direct bearing on the questions of the staff and the organisation of the office?—

Under the existing Act, I think it is quite possible that in time the landowners in the country will realise the immense benefits that the Acts bring them, and will insist upon the county councils passing the necessary resolutions; but that may be a work of considerable time. On the other hand, I think it is not improbable that Parliament may slightly increase the compulsory powers which already exist, either by putting the initiative into the hands of the Privy Council, leaving only a veto to the county councils, or in some other way. I think if the initiative were given to the Privy Council, and the county councils were only allowed a veto, that would make a very great difference. There is a very great difference between a county council embarking on an undertaking of that nature in face of a certain amount of opposition which must always be counted upon, and merely acquiescing in it when it has been proposed by the Privy Council under the provisions of a general Act of Parliament.

51,061. (Mr. Coward.) There is great divergence of opinion about this, is there not?—Among whom?

51,062. I mean generally among the profession?—In the legal profession, yes.

51,063. Of course, they are the people who determine it, because they would advise their clients?—That is really where almost the entire apparent opposition to these Acts occurs.

51,064. (Chairman.) A Royal Commission sat on the subject of the Land Transfer Acts—the Commission which reported in 1911?—Yes.

51,065. Did they make any recommendation as regards the extension of compulsory registration?—What they recommended in effect was a certain number of alterations in the detail of the working of the Acts, and I think I may say they expressed a hope that when the results of these alterations had been felt there would be some extension of the compulsory use of the Acts. They said, too, that this was a national and not a local question, which I think meant that it was not really a good plan to have England divided county by county, one registered and another not, and that the matter ought to be taken up in a larger and a more comprehensive sense.

51,066. Did the Commission express an opinion as to the reasons which had produced the small amount of voluntary registration, and had limited voluntary registration within comparatively narrow limits?—It is rather difficult to say from reading the report exactly what the Commission really did think about it. It was a unanimous report, and it probably represented a combination of a number of different opinions; and I must admit, for my own part, that I found the report rather difficult to gauge in that respect; but, speaking very broadly, I think the effect of it was as I put it—that they considered there were certain improvements which would be desirable, and that they could not recommend any large extension of compulsion until those improvements had been made and their effect had shown itself.

51,067. They suggested improvements, and proposed to wait and see the effect of those improvements before any large extension was introduced?—Yes.

51,068. Have the improvements which they recommended been effected?—One, to which they attached great importance, was that of encouraging and increasing the proportion of absolute titles as much as possible; and that has been carried out to a very large extent. In my opinion, if I may say so, that is the most important point in the whole matter.

51,069. Has that produced a very perceptible effect in the proportion between absolute and possessory titles that are registered?—Yes.

51,070. Can you give us figures as to the number of titles of those two kinds registered in recent years?—Yes, I could supply the figures of absolute titles during the last four or five years since the new rules came into force, but I have not got them with me. They came now to over 2,000,* whereas before 1909 they were not much more than 100 per annum.

* The annual totals of absolute titles registered from 1909 to 1914 are 467, 641, 830, 1,506, 1,742, 2,326.—C. F. B.

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51,071. Are you speaking now of voluntary registrations, or do those figures include the compulsory registrations?—I mean the cases in which a compulsory registration of absolute title is registered instead of a possessory title.

51,072. Where registration is compulsory, as in London, it still remains optional whether you register absolute or possessory titles?—Yes.

51,073. Amongst those cases the proportion of absolute titles registered has very considerably increased?—Has increased and is still increasing.

51,074. To return to the question of the disposition of your staff; we had dealt with the two branches concerned with the registration of absolute titles and possessory titles, and subsequent dealings. You also have a Central Office, which deals with the recording and passing on of work?—Yes.

51,075. That Central Office has a small staff mainly of the lower grades?—That is so.

51,076. Then as regards the Map Department you told us generally what their duty is. Will you explain it a little more in detail?—Every registration involves making a plan of the land comprised in it, or at least identifying the land on an existing plan of the neighbourhood. It also has to be marked on a general index map, and its boundaries have to be compared with those of adjoining registered properties. The labour involved in those operations is much increased by the doubtfulness and inaccuracy of the materials that are often placed before us and the frequent necessity of revising the ordnance map.

51,077. At what intervals is the Ordnance map normally revised?—I believe the Treasury minute, under which the Ordnance Survey now act, gives 15 years as the maximum time in which the map is to remain unrevised. I believe they do revise it, in fact, rather more frequently than that.

51,078. In districts where building development is going on rapidly, it would be very much behind the time before revision comes?—That is so, and it is in those districts that the need of frequent revision is really rather a crying one, because it is at the moment of alteration and change that the public most want a large scale map, and to give them a large scale map five or six years after the alterations have been made, is of comparatively little value to what it would have been if they could have afforded it nearer the time.

51,079. Would it be also true to say that those are the districts in which registration is of most value to the proprietors?—These are exactly the districts in which registration is most active, because there are building estates being developed, and sales in plots going on every day, of which plans are required; and the result of it in London has been that the Land Registry has had to do its own revising in the suburbs during the last 15 years.

51,080. Have you any arrangement for co-operation with the Ordnance Survey in that work?—The Ordnance Survey help us a great deal, particularly in the matter of printing and lithographing our maps, but the actual surveying we have done ourselves, because we work on rather a different principle to the Ordnance Survey. The Ordnance Survey take a large district and send their surveyors two or three times over the whole district, mapping and correcting one another; and it is rather a lengthy process, taking a year or two, generally, from the first surveying to the completion of the map. Our work has to be done little by little and rapidly, because the purchaser of land wants to have his registration completed within a few weeks, or even days, of his conveyance, so that we have to send surveyors on whose work we can absolutely rely and to adopt it, and incorporate it very quickly, so that the two systems would not work very well together; and we have not been able to get very much assistance, except when very large surveys have been required, from the Ordnance Survey. The Directors-General have all been extremely kind and helpful wherever they could be, and our relations, if I may say so, are most cordial.

51,081. Does the Ordnance Survey use the materials provided by your surveyors?—In the revision of

London, which is now going on, they have certainly had before them, and, I believe, have to a certain extent made use of, some of the work that we have done; but it must be remembered that their responsibility is rather a different one to ours. They have to make an absolutely complete survey of every object of importance on the land in the whole area. Our responsibility ceases when we have got the boundaries of every particular property, so that in many cases there may be alterations in the internal parts of the property which would entirely miss our surveyors, but which ought to appear on the Ordnance map.

51,082. On the other hand, also, your surveyors are concerned with questions of boundaries which might entirely escape the Ordnance surveyors. If the boundary was not actually marked on the ground, the Ordnance surveyor would have nothing to mark?—Exactly. There are many cases in which the boundaries of property are not marked by anything, and are only to be got from the title deeds; but our surveyors have to amalgamate the title deeds with the map, and show on the map where these imaginary lines are supposed to pass.

51,083. That involves a kind of inquiry which is entirely outside the work of the Ordnance Survey?—Yes, that is so.

51,084. And, I suppose, it is in some cases a difficult inquiry?—Yes, it is; it requires considerable experience. Our surveyors, in the course of 15 years, have acquired a considerable knowledge of the way boundary questions resolve themselves, and they can be trusted to form a judgment and to look out for indications which those who have not had their experience would miss.

51,085. Was the mapping formerly done for you by the Land Commission?—Up to about 1888. From 1862 to 1888 the Land Commission in St. James's Square did all the mapping for the Land Registry, but that was not a very convenient arrangement, because of the distance which separated the two departments. Maps were wandering about from one to the other, and it led to a good deal of complaint on the part of the public who were using the office; so, about 1888, a new arrangement was made, and when Sir Charles Wilson was Director-General of the Ordnance Survey he lent us two or three of his surveyors, who, under the superintendence of Ordnance Survey officers, carried out the work of mapping for us, which had formerly been done by the Land Commission.

51,086. Do you find it more satisfactory having the Map Department under your own control?—Very much. I regard it as almost essential, because you cannot dissociate the mapping from the legal aspect of things altogether. I do not see how we should ever get on without, at any rate, some surveyors exclusively employed upon our own work.

51,087. What is the staff of the Map Department at present. Is the present staff 65?—That is the staff employed on the Land Transfer Acts. There are a few more returned in the Map Department who are employed on the Middlesex Registry Map Index.

51,088. That staff is under two chief superintendents who receive pay of 550*l.* a year?—Yes, 400*l.*, rising by 20*l.* to 550*l.*

51,089. One of your chief superintendents came from the Ordnance Survey?—Yes.

51,090. Where did the other come from?—The other had been in Colonial service, and had been charged with government surveys at Hong Kong.

51,091. Is that a colony where land registration is in force?—Yes. I understand from him that they have a registry of deeds there where dealings with land are conducted on a mapping basis.

51,092. You have five superintendents, 26 surveyors, revisers, and draughtsmen?—For the Land Transfer Acts there are only 4 superintendents and 23 surveyors the others are in the Middlesex Index.*

* There are also 15 assistant draughtsmen, of whom 12 are employed on the Land Transfer Acts.—C. F. B.

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51,093. Have they mostly come on to you from the Ordnance Survey?—There was a small nucleus of Ordnance Survey men given us in 1889, but now the great majority are men who have been recruited since from ordinary surveyors.

51,094. You also have a certain number of boys employed. What is their work?—They do a great number of things. In making maps there is a good deal of printing to be done. They prepare the printing of names, and there is a good deal of moving about and running messages in the departments, bringing maps from one room to another, keeping the instruments and colours and papers that are used, and so on.

51,095. Do they go out and about with the surveyors?—The boys do not go out of doors except possibly very occasionally, but they do learn to draw; they are taught to draw maps. Some of the assistant draughtsmen have been employed as boys before they were given their present posts.

51,096. Have the boys a reasonable prospect of further employment in the Map Department after they have ceased to be boys?—Not very much; the great majority have to go.

51,097. At what age do you send them away?—I think 19 in the Map Department.

51,098. Do you know what becomes of them?—That is, I consider, rather a weak point in our arrangements. Their parents are always warned before they are taken on that it does not lead to employment in the office, and that they must regard the matter as absolutely terminated when they reach 19. A certain number of parents object to that, and negotiations for a boy will cease when they know that. On the other hand, a good number are willing to let them come on those terms. Of course they learn a good deal while with us, and they do get placed about in business.

51,099. Do they learn anything that fits them for some definite employment or trade?—Yes, they learn to be draughtsmen. They learn the use of paints and brushes, and how to manipulate maps and something about them, but not very much.

51,100. Would it be possible to arrange their work so as to train them for the lower posts in the Map Department?—Yes, we do that all we can, but there are so few vacancies that most of them have to go away without any possibility of our employing them afterwards.

51,101. The number of boys employed is considerably greater than the number that can be provided for by subsequent vacancies in the office?—Yes, there are very few vacancies.

51,102. Do you anticipate that the work of the Map Department will continue fairly constant. I suppose, if there was considerable development in the amount of registration, the mapping work would equally develop?—It really depends upon that. If there is anything like the increase of registration which we all hope there will be in the course of the next 10 or 20 years, there will be plenty of employment for them; but if we remain substantially as we are, the amount of mapping work will tend slightly to diminish, because as we gather the land of London into the registry, the amount of mapping to be done becomes less and less, until it reaches a minimum.

51,103. The mapping being chiefly required on first registration?—Yes.

51,104. How are the wages of the mapping staff fixed. I see they are mostly paid at day rates. Are those fixed with reference to the pay for similar work in similar employments outside the Government service?—They were fixed originally rather with a view to the rates of the Ordnance Survey, because it was thought undesirable that there should be two Government departments employing apparently the same class of workmen and doing apparently the same class of work giving different rates of pay. I think our rates are a little bit above the Ordnance Survey in some respects, but not much.

51,105. The Ordnance Survey have an enormously larger staff?—Very much larger.

51,106. So naturally the determination of the rates of pay would depend rather on the Ordnance Survey than on your department?—Yes.

51,107. You have also a Scrivenery and Typing Department?—Yes.

51,108. Does the operation of registration include much copying for the purposes of record?—Yes, a good deal. The documents that come in for registration very often have to be copied. We also want copies or abstracts of deeds creating subsidiary rights in land, and also of deeds that come in to be perused on first registration, and of deeds that have to be referred to on the register, besides typing the registers themselves, which is a considerable work.

51,109. Is the matter entered in the registers themselves voluminous?—We try to keep the entries in the registers themselves as short as possible, and if there is any document relating to the land which is long and complicated, we make a copy of it and file it, and refer to it on the register. For instance, a deed creating restrictive conditions as to what is to be done with land, what you may or may not do on it, such as keeping to a building line, height of fences, using it only for a private dwelling house, and so on—those kinds of things are very often filed and referred to. We try to keep the register merely to outline who is the proprietor and what are the encumbrances.

51,110. And where it is necessary to file documents giving further information than the entry in the register itself, do you keep the original documents or a copy?—Where the document is prior to registration, we generally keep a copy only; if it is subsequent to registration, we keep the original.

51,111. In cases where you keep the original, is there also any copy or abstract made?—A copy is very often wanted to bind up with the land certificate. The land certificate is sent out to the proprietor, and he likes to have with that very often a copy of any document that is referred to on the register.

51,112. Then there is a large amount of copying work to be done?—Yes.

51,113. Is that done mainly in handwriting or in typewriting?—We do as much as we can by typewriting, but there is a certain amount which, owing to its being the filling in of forms, or being rather irregular and difficult to fit into typing machines, is done by hand.

51,114. The register itself is typed, is it not?—Yes.

51,115. Is that typed direct into a book?—Yes, there is a special machine which will type entries in a bound book, and at the same time we get a second copy for the land certificate.

51,116. It types a copy at the same time as it types the original in the bound book?—Yes.

51,117. Is that work done by men or by women?—That is done by women.

51,118. Is all your typing done by women?—We have one male typist, but only one.

51,119. Are they paid at the rates applicable to women typists in the Civil Service generally?—It is not quite the same. There is a chief superintendent of typists getting 30s. a week, and rising by 2s. to 40s. a week; a superintendent at 30s. a week, rising by 2s. a week to 35s.; and an assistant superintendent with 27s. a week, and 12 typists with 20s., rising by 2s. to 26s. per week.

51,120. How does that compare with the scales applicable to the Civil Service generally. Is it not the case that the Treasury have laid down certain scales for female typists?—I cannot say off-hand. I believe it is not very different.

51,121. You employ seven writers in all?—Yes.

51,122. Are they men?—They are men.

51,123. Most of them are paid by piecework?—Six are paid by piecework, and one has a salary of 20s. a week.

51,124. How is the examination of documents done after they have been typed or written?—The examination is done by the writers. The typists do not examine their own work.

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51,125. In examining documents, does one read and the other verify?—Yes.

51,126. Is that done by piecework also?—That is done by the piecework writers.

51,127. Do you know how your piecework-pay for the writers compares with the conditions in the Scrivenery Department of the Supreme Court offices?—They are modelled to be as nearly as possible on the same system. Our piecework writers, on the average, earn about 120*l.* a year.

51,128. That is partly by writing and partly by examining?—Yes.

51,129. In fixing their rates of pay, did you compare the rates with those of the Scrivenery Department and those for similar work done in the Probate Registry?—The work in the Supreme Court.

51,130. But not in the Probate Registry?—No.

51,131. The intention was to fix them at about the same level?—Yes.

51,132. Is any maximum fixed for the amount of work that they may do?—Not formally, but we think it is not very good for them to do very much more than 120*l.* or 130*l.* worth of work in the year. They have to work rather hard to do that.

51,133. How many hours a day do you estimate that they have to work, on the average, to earn that?—They come about half past 9, and they leave from about 5 to half past, and sometimes they stay rather later. Of course it varies very much. That is the advantage of piecework, that when you have a large quantity of work in, you can put in a little extra time, and so the work does not get into arrears.

51,134. Would the average be about eight or nine hours a day?—I will look that up.*

51,135. Do the writers also write index cards?—Yes, we use card indexes to a very great extent—many thousands of cards. Every proprietor of a registered estate has a card to himself, and the writers write all those cards. The card contains the numbers of the titles in which the proprietor is interested.

51,136. Besides the names of the proprietors, have you any other card index in use?—There are some for the internal work of the office—for correspondence, for instance. The writers do not do that. The Middlesex Map Index has a very large card index. Every parcel of land in Middlesex has a card, and the references to the registrations that affect it are entered from time to time.

51,137. That index is accessible to the public, I presume?—We do not allow the public to handle the card indexes, because there is a danger of losing cards, but the information in them is at the disposal of the public.

51,138. If a member of the public wants to know, with reference to a certain person, what titles are registered, he can obtain that information on application, but he does not himself have access to the card index for the purpose of obtaining it?—It is not quite that, because the registers under the Land Transfer Acts are private and not open to general inspection, but any person who shows that he has a general interest in the land belonging to any individual can ask that question, and get the answer.

51,139. Do you mean "interest" in the legal sense, or in the popular sense?—I mean in the legal sense. For instance, an executor may come and say: "Tell me the titles which my testator is the registered proprietor of," or a trustee in bankruptcy may come and say: "Tell me the titles you have got my bankrupt registered as proprietor of;" or the man himself, or his solicitor, can come and ask the same question.

51,140. In the case of the Middlesex Registry, is the index public?—The Middlesex index is public; anyone may come in and look at it. That is an index that is kept in books, and that is also part of the writers' work.

51,141. I thought you said that that was a card index?—There are two indexes in Middlesex, a map index and the book index. The book index goes by names of persons against whom deeds are registered, and the map index goes by parcels of land.

51,142. How are parcels of land stated for purposes of an index?—We have a map of the whole county on which every parcel has a number and that enables it to be entered on a card.

51,143. Then the cards in that case are in numerical order?—Yes, according to the sheets of the map.

51,144. Then if I wished to ascertain something about a particular plot, I should first of all have to turn to the map and find the number that that plot bears?—Yes.

51,145. And from that number the card in the card index could be obtained?—Yes.

51,146. Is that operation of finding that card done by the members of the public themselves or by an officer of the registry?—Only by officers of the registry.

51,147. So you do not in any case give the public actual access to a card index?—No.

51,148. And you do not think it would be practicable to do so?—I hardly think it would because of what I said before, the danger of losing a card, and also they require rather delicate handling. If you allow the public access to a thing you must be prepared to have rather rough usage sometimes.

51,149. But for the internal use of the office you find them satisfactory and convenient?—Extremely so.

51,150. In the case of this map index, where the cards are in numerical order, what is the advantage of a card index over a book index?—If the parcels in the county had been from the very beginning an entire and final set of parcels never requiring alteration, and all requiring notification in the same way, it would have been possible no doubt to construct a book index giving every number and then using that for ever afterwards; but as a matter of fact the index has been put together gradually and the parcels have only been brought on to it as registrations have occurred, and the numbers have been given to them conjecturally from time to time, and certain numbers have been kept in reserve in case alterations should occur on the map; so that the construction of the index itself has been more conveniently done by means of cards than it would have been by means of books. Of course it is very bulky. Everything in Middlesex runs to great quantity, and I do not know but what in the end when we have got something like the whole face of the county covered by our cards they might not be copied into a book or books with advantage, but certainly for the present while it is still in course of construction the card system is, I am sure the best.

51,151. That is to say, the series of numbers attached to the registered cards is not consecutive. You have numbers arranged on some other principle and some of those are registered and some are not. Some of those come into the index and some do not?—Yes.

51,152. And as you insert further plots that have not hitherto appeared in the index it is necessary to be able to insert them at different points in the index, and therefore the card system is more convenient?—That is so. Another thing is, that one number will have a very large number of references against it and another number a very few. It would be very difficult to apportion the space in a book beforehand to each number, because you have no possible means of guessing how many deeds will be registered against each one.

51,153. Is there a separate card for each deed registered?—No, but a separate entry on the parcel-card.

51,154. Do you find that the work of the women typists is satisfactorily done?—Yes, excellently done.

51,155. Continuing our examination of the structure of the office, you have a department which deals with the Middlesex Registry. That department has a chief clerk, a certain number of other clerks and a certain amount of mapping staff?—Yes.

51,156. Then the Land Charges Department is a small department?—Yes.

* Usual hours are seven only. At times of pressure they sometimes, but rarely, go up to about nine hours of actual work.—C. F. B.

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51,157. Besides those you have the Secretary's and Accounts Departments?—Yes.

51,158. Can you tell us, briefly, what their work is?—The secretary gives personal assistance to myself, and he also takes what I may term the domestic economy of the department—that includes all financial matters, the distribution of weekly and monthly pay to the staff of 230 people; the accounts connected with the Vote ranging over about 40,000*l.*; the preparation of the annual estimates, appropriation account, and account of receipts and expenditure. He also has the care of the building and stores, furniture, stationery, and other supplies, discipline of the attendants and cleaners, and the regulation of their duties; receiving, noting, and distributing all letters which come into the department (about 79 or 80 daily) and typing and sending out letters. He has official correspondence with the Lord Chancellor, the Treasury, the Civil Service Commission, and other Government departments, and the care of records relating to the individual members of the staff, including such matters as leave and sick leave.

51,159. The discipline and the allotment of duties, and so forth, is, of course, ultimately under your direction?—That is so.

51,160. Who is your principal officer for dealing with these matters in detail. Is that within the secretary's department?—Yes.

51,161. Would the secretary deal with minor matters of discipline, or do such matters all come to you?—Very minor matters he would deal with himself. He has a certain amount of discretion, but anything that is at all important he would bring to me personally.

51,162. Who deals with such matters as the allotment of leave periods?—Leave is strictly regulated in quantity, but the secretary would deal, for instance, with the arrangements among the attendants as to when they are to go, what week each particular man is to take, and so on.

51,163. Who deals with these arrangements among the clerks as to the period at which a particular clerk should have his leave?—That is arranged by his own immediate superior in the legal or clerical staff.

51,164. In the particular department in which he is working?—Yes.

51,165. Can you tell us generally how in these different departments the work is distributed between the different classes of clerks?—The duties of each grade of clerk vary considerably according to the department to which he is appointed, but, generally speaking, the assistant registrars and first and second class clerks are employed on purely legal duties of a superior kind. The third class and temporary clerks are employed on mixed duties, partly legal and partly routine.

51,166. Can you say that the second class clerks are employed in purely legal duties of a superior kind?—Generally speaking, yes.

51,167. They have not any work of what you would describe as purely clerical?—Except the secretary and assistant secretary. They are all employed on legal work of a fairly responsible kind. I have already described the work of the Secretary's Department.

51,168. You say that the duties of the third class and temporary clerks are partly legal?—Yes.

51,169. To what extent have they any legal duty which involves discretion or knowledge of law?—A good many of them prepare the entries for the register; they draft entries; but I do not think any of them finally settle entries.

51,170. The final settlement would be done by some one of a higher grade?—Yes.

51,171. Do they ever examine titles in a preliminary way?—Yes, one would do it whose previous education has fitted him for it.

51,172. In the case of first registration with possessory title, I see three third class clerks are employed?—Yes.

51,173. Would they do any of the *prima facie* examination of titles which you described in the case of possessory titles?—Yes, they would.

51,174. On what work are the assistant clerks employed?—The assistant clerks are employed almost entirely on routine work, of which there is a great deal.

51,175. That is to say, keeping lists and indexes, filing documents, and so forth?—Yes, that kind of thing.

51,176. Do you find that they do the work satisfactorily?—Yes, very.

51,177. They are good enough in quality for the work which they have to do?—Yes, we are very well satisfied with them.

51,178. The work of the Map Department you have already sufficiently described to us?—Yes, I have nothing to add to that. I am not sure whether I stated that one distinctive feature in their work, as compared with that of ordinary surveyors, is that the upper ones have to read deeds, and to read the descriptions of land in deeds, and to harmonise these descriptions with the maps and plans which they have to make, and with the state of the ground in cases of doubt; so that there is a semi-legal element in their work, which does not come into ordinary surveying.

51,179. What is the position of the staff as regards pension rights?—All members of the legal and clerical staff, except the boy clerks, temporary clerks, and writers, have pensions under the Superannuation Act. The Map Department and the attendants have no pensions. As regards the Map Department and the two chief attendants, I think it ought to be altered, and I hope we may get pensions for them.

51,180. The staff of that department have made representations on that subject in the past?—They have.

51,181. Have you seen the statement which they have submitted to this Commission?—I have.

51,182. Without going into the detail of that statement, do you generally support their application to be made pensionable?—Yes, I do, thoroughly, and I would extend it to the whole department. You will notice that that representation is only made by a few members, and on a ground relating to their leaving the Ordnance Survey; but what I hope is, that there may be a pension scheme applicable to the entire Map Department as such.

51,183. Are the staff of the Ordnance Survey pensionable?—A certain number are, and after these gentlemen left the Ordnance Survey, a general scheme of pension was introduced into the Ordnance Survey, and part of the grievance of these particular gentlemen is that, by leaving the Ordnance Survey and coming to us, they lost the benefit of that pension scheme which they would have had if they had remained; but I prefer to ground our claim for pension upon our own work.

51,184. It is inconvenient to have a pensionable staff unless the work that they are doing is permanent and fairly constant in volume?—Certainly.

51,185. Do you consider that the work of the Map Department complies with those conditions?—Yes, I think it does as regards all the members who are there now, at any rate those who are in any responsible positions; all the time they are likely to be at work there will be plenty for them to do.

51,186. Turning now to the question of appointment, by whom are appointments to the Land Registry made?—All appointments are made by the Lord Chancellor.

51,187. Are there statutory qualifications in any cases?—The registrar has to be a barrister of 10 years' standing, and an assistant registrar has to be a barrister or solicitor of five years' standing.

51,188. In the case of the other classes there is no statutory qualification?—No statutory qualification.

51,189. What is the practice as regards appointment to the other classes? Are appointments made direct to the third class or direct to the upper classes?—A certain number of appointments are made direct to both the third and the second class, although of late years there have been very few appointments from outside.

51,190. Were a considerable number of appointments made direct to the second class at the time when the department was expanding?—That is to say, the period of 1899, 1900, and 1901?

51,191. Yes?—I think the majority were brought in at the third class, and sometimes on a temporary

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footing. One or two were brought in at the second class at that time also, sometimes preceded by a temporary engagement.

51,192. Are the members of the first and second class mostly barristers?—The first class are entirely barristers, with one exception, the Land Charges clerk, who was originally on the staff of the Law Courts.

51,193. And the second class?—In the second class seven are barristers and two are solicitors.

51,194. (*Lord Mersey.*) And the barristers do not practise, I suppose?—No, they give their whole time to the office.

51,195. (*Chairman.*) Had any of them been actually practising barristers before appointment?—In the first class, yes; five had been practising barristers, and one, who is now a barrister, had been a practising solicitor. In the second class two had been practising solicitors.

51,196. So that, speaking generally, the first and second class clerks are men who have substantial knowledge of the law, and have had substantial experience in legal work before entering the office?—Certainly.

51,197. What is the practice as regards appointments? Does the Lord Chancellor through his secretary consult you before appointments are made?—Yes. I may say that, as a matter of fact, I do not think I recollect any appointment being made since I have been registrar without usually my seeing the candidate and having some conversation with the Lord Chancellor's secretary about him.

51,198. Have several candidates been sent to you and your opinion asked as to which was the best, or has one candidate been sent in order that you might give your opinion as to whether that particular man was suitable for the appointment?—As far as my recollection goes, I think there have been cases in which there has been a question of more than one candidate on which I have been asked my opinion.

51,199. Do you ever suggest candidates?—It is not properly my province to suggest candidates, but I have sometimes been asked whether I had any suggestion to make, and I have made it to the best of my ability.

51,200. Turning to the subordinate classes, are the assistant clerks allotted to you by the Civil Service Commissioners?—Yes, for the most part. Some of them have been put into that grade after temporary employment in our department.

51,201. Temporary employment in what capacity?—Several as boy clerks. If we have found a boy clerk very good as he gets older we have asked for him to be made an assistant clerk, but with those exceptions I think they have all been sent to us from the Civil Service Commissioners.

51,202. How are the temporary clerks appointed?—We make inquiries of a general kind. One can generally, by making inquiries, find suitable men.

51,203. Are the appointments by you or by the Lord Chancellor?—By the Lord Chancellor.

51,204. On your recommendation?—Yes, to a certain extent.

51,205. In the case of the Map Department are the appointments in the hands of the Lord Chancellor?—Yes.

51,206. In that case does he act on your recommendation?—In the case of draughtsmen and map department boys, the registrar selects and reports to the Lord Chancellor. In the case of assistant clerks and boy clerks, the selection is usually left to the Civil Service Commissioners and reported to the Lord Chancellor.

51,207. What is the practice as regards promotion? Promotions are made, I suppose, by the Lord Chancellor?—Yes.

51,208. Do you make recommendations to the Lord Chancellor?—As regards promotion, the Lord Chancellor has always been good enough to consult me before making any promotions, and I always, naturally, make a point of consulting my principal colleagues or any other member of the department who I think would be likely to give me useful advice.

51,209. Do you consider that the system has been satisfactory as tested by the results?—Yes; I do not

think we should have got a better set of men in the various grades by any other means that I can think of.

51,210. Your present staff you find thoroughly satisfactory for the work which has to be done?—Yes, I do.

51,211. The suggestion has been made to the Commission that in place of the Lord Chancellor a Committee or Board should appoint. The kind of Board which has been suggested is one on which the Treasury and the Civil Service Commission should be represented, and also the Lord Chancellor by his permanent secretary. It would include also the head of the department concerned and possibly some outside member of the legal profession. What is your opinion about that suggestion?—It is very difficult to make up one's mind how any very great change of that sort would work in practice. I think the drawback of a committee is that you lose the sense of individual responsibility, and it is likely rather to increase mediocrity. It would be more difficult, I think.

51,212. Why should it increase mediocrity?—It is rather difficult to express an opinion. Supposing the head of a department has a feeling that a certain man who is not the next in order is the best man for the post, it is more difficult for him to persuade five other people that it is so than to persuade one. I think he ought to make up his own mind.

51,213. You are speaking now rather of promotion than of original appointment?—Yes, I was thinking of promotion.

51,214. Dealing with the question of promotion, would not the head of the department, who is in direct and daily contact with the persons concerned, be more likely to be influenced by considerations of what I may call humanity than a committee, the members of which are mostly not in daily contact with the persons?—I think a committee would be much more likely to go by seniority. I think they would be much more difficult to move out of the routine of seniority. I think the principal wish of the head of the department would be efficiency in his own department. If he gets incompetent men in the upper grades he is making a stick to beat himself with. It is to his own personal interest to get the best men well forward in his staff.

51,215. But is there any reason why a committee of that sort should have any other object than efficiency?—Certainly not; but it would be more difficult, I should think, to persuade three or four men who have no personal knowledge of the staff as to the claims of any particular person to promotion, than to make up one's own mind if one were the responsible head.

51,216. Surely a committee of that kind would attach very great weight to the opinions expressed by the responsible head and his principal officers; in fact, that would be their only means of information as regards the persons concerned?—That would be so, no doubt.

51,217. (*Lord Mersey.*) You mean to say that that ought to be so?—One would hope it would be so.

51,218. (*Mr. Boutwood.*) But if so, what is the use of a committee?—I agree.

51,219. (*Chairman.*) The committee was suggested, I think, primarily with a view to original appointments rather than with a view to promotions. What do you say as regards that suggestion in the case of original appointments including, I may add the appointment of the registrar himself?—I think there would be no great objection to a committee, because, as you were saying with regard to promotions, the committee would naturally give great weight to the opinion of the responsible head of the department who would be a member of it, and I think in our own case, for instance, provided it was not more than five members, and that the Lord Chancellor was represented on it, and the registrar was represented on it, you would get a very good set of appointments probably; but I should like to say that I do not know that you would get a better set of appointments than we have now.

51,220. At present you have told us that the higher classes are, in part at any rate, filled by promotion from the third class and from the temporary clerks?—They have been at present, yes.

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51,221. The work of the third class is largely clerical, and so far as it is legal is not a responsible kind of legal work?—That is so.

51,222. The work is, to some extent, I suppose, of a routine and mechanical character in the third class?—To some extent, yes.

51,223. Do you consider that it is the right system to make appointments to the third class with subsequent promotion to the higher classes; or would you, as has been suggested in some of the other departments, separate the third class and appoint men to that without prospects of promotion in the normal course, thus confining them to the more mechanical kinds of work, and filling the higher classes by direct appointment?—I think the latter is the more suitable way for our work. I think the work in the lower branches is not much of an education for the work that they have got to do in the higher branches, and that it would be best to have quite a clear division between the clerical and routine classes and the legal and superintending classes.

51,224. In that case would you recruit the higher class from among men who have had some legal experience?—Yes, I think exclusively.

51,225. From barristers or solicitors?—I should say from the legal profession generally.

51,226. Do you include in that solicitors' clerks or only barristers and solicitors?—I think we ought to draw the line at barristers and admitted solicitors.

51,227. You would not consider solicitors' managing clerks suitable for that work?—Not for the higher grades. As you are doubtless aware, a great many managing clerks are solicitors, and those would be eligible; but a managing clerk, as such, unless he was an admitted solicitor, would not, I think, be suitable for the higher grade.

51,228. Then for the third class—the lower grade that you suggest—what method of recruitment would be suitable?—I think the most suitable men for us would be in almost all cases, but not quite, men who have had some experience in law offices—the class that we call law-clerks, mainly in solicitors' offices.

51,229. Do you want the kind of experience that they have got?—Yes, the sort of familiarity which they have with deeds and the general atmosphere and operations of law.

51,230. Would men of good general education and intelligence coming into your office at the age of 18, say, without any experience in a solicitor's office learn the work that you propose for this class without difficulty?—Yes, I think they would in time, and become as good as those who had begun in legal offices.

51,231. It would be merely a question of the time they would take to learn the work?—Yes, they would take some little time.

51,232. The assistant clerks that you get at present have not had any legal experience as a rule?—I do not think any of the existing assistant clerks have had legal training.

51,233. Would the work which you suggest for this lower grade be materially better, or more legal in its character, than the work done at present by the assistant clerks?—I think we should find that we could use them for certain classes of work which we cannot use assistant clerks for—things like making searches, and comparing abstracts with deeds, and some of the more elementary conveyancing work, but it would not be to any very great amount.

51,234. What should you say to open competition as a means of access to the lower grade?—My idea would be that we should have some recruited by open competition and some recruited by limited competition among law clerks.

51,235. Among persons with a certain length of experience as law clerks?—Yes.

51,236. When the first Civil Service Commissioner was speaking upon that point he said that he saw considerable difficulty in defining employment as a law clerk, since there is some difficulty in drawing a line between the work of an office boy or a bag carrier and a solicitor's clerk in his earliest stages. It might be difficult, therefore, to make a qualification of that kind effective.

What do you say to that?—I could always myself, on seeing the candidate and asking him as to what he had been doing, and putting a few questions to him of a test character, satisfy myself that he was of the sort that we wanted, but I do not know quite whether it would be possible for the Civil Service Commissioners—if they were charged with the whole work of sifting the candidates—to do it.

51,237. You would like, if it was not found impracticable, to have that grade recruited partly, at any rate, by competition among persons possessing some such qualifications?—Yes, it would be very useful to us.

51,238. If a separation were made in that way, would you suggest any alteration in the title of the higher grades?—Yes, as regards the term "clerk"—although one knows that it does apply to a great many very high officials indeed—I do not think, in a general way, in a legal department the term "clerk" at all well describes the sort of official that we want for the higher grades, and I should like to see the terms "first class clerk" and "second class clerk" changed to something that would convey a better idea of their status and the quality of their work. It has been suggested that there should be a new grade placed above the first class clerks, with a better salary, called "Acting Assistant Registrars," that the first class clerks should be called "Chief Assistants," and that the second class clerks should be called "Assistants"—but many other names would do equally as well, no doubt.

51,239. That suggestion, besides giving them titles, which you consider would be more appropriate, would also bring about an actual improvement in their position by inserting a higher grade between the assistant registrars and the first class clerks as they are at present?—Yes, I think that is very much wanted.

51,240. Is it your opinion that the first class and the second class are doing better work than they could be expected to do, having regard to the salaries that are paid?—Yes, it is.

51,241. Perhaps you will explain your reasons for that a little more fully?—My reasons are that since the increase of absolute title work we have entirely occupied the time of the assistant registrars and two of the first class clerks with examinations of title, thereby throwing the more important work, which the assistant registrars used to do, on to the first class clerks, and I think they ought to have a status and pay more nearly corresponding to the assistant registrars than they used to have, on that account. One wants to establish a grade which would be a sufficient maximum salary for a professional man, with fair prospects and good abilities, sufficient ultimately for an assistant registrarship (as is the case with several of the present first class clerks) to come into the office. I think a maximum of 600*l.* a year, which is the present maximum of a first class clerk, is hardly that. You could not expect, as time goes on, to get a good flow of other candidates from the Bar, or solicitors, if that remains the maximum to which they could look forward.

51,242. Have you seen the statement which has been presented to the Commission by the first class clerks?—Yes.

51,243. Do you support, generally, the statements made in that document? The first point which they make is that the scale is lower than that which obtains in other departments for work of a similar character. Could you say if that is the case?—It is very difficult to ascertain exactly what the work in another department is, of course; but so far as I can find that out, I think they are right in saying that.

51,244. Can you suggest any work of a really similar character that is done in other departments?—I do not think there is any department in which so much pure law comes in; but as regards the mixed work of law and administration, I should say that the work of the principal clerks and the assistant commissioners of the Charity Commission was not very different to that of the first class clerks that we have now. You want about the same stamp of man, I think.

51,245. What is the scale of pay of those two classes?—They get a maximum of 800*l.*, which is what I have suggested.

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51,246. Is that the principal clerks or the assistant commissioners?—I think the pay of those two classes is almost the same—a maximum of 800*l*.

51,247. Are you familiar with the Estate Duty Department of the Inland Revenue?—Except as sometimes having gone there myself on private business, I do not know much about it, but I have a sort of idea of what they do.

51,248. Is the work there at all analogous to the work at the registry?—I should not like to say; I do not know enough about it.

51,249. Without going through the whole of the statement of the first class clerks in detail, I would like to call attention to paragraph 5, in which they say: "The prospects of promotion throughout the department are small. It is nearly 11 years since the last promotion to a full assistant registrarship, and in the ordinary course it may be nearly 10 years more before another vacancy arises." Do you confirm that?—Yes, I agree to that.

51,250. Do you consider that the gentlemen who entered the department have any ground for thinking that the prospects of promotion are less favourable than they appeared to be at the time when they entered?—Yes, I think they have. I must confess that I, myself, have been somewhat disappointed at the long time that we have been kept at this London work without expansion into the country. I, myself, when most of those gentlemen were appointed, fully expected that by this time we should have had several counties under our system, which would have made all the difference as regards promotion.

51,251. Would it be correct to say that at the time they entered they thought the work of the registry would develop and increase rapidly, and that therefore there were likely to be increases in the higher staff above the level at which it stood at the time they entered?—Yes.

51,252. And those expectations have been disappointed?—Yes.

51,253. Not that any expectations based upon the existing state of things when they entered have been disappointed?—I do not quite follow.

51,254. Their expectations were based upon the prospect of development of the work of the office, and not on the actual condition of the office as it was at the time they entered?—Yes, that must have been so.

51,255. The work has developed to a certain extent?—Yes.

51,256. In an office where the work remains stationary there are certain prospects of advancement by lapse of time. Is there any ground for saying that the prospects arising from that point of view have been disappointed?—I think, perhaps, it was not fully realised by everybody on coming into the office how young we all were. I am the oldest person in the office, and it will be a good many years before I shall have to retire compulsorily. The result is, naturally, that unless there is expansion of the work somewhere there will be no promotion at all.

51,257. That is an inconvenience which almost necessarily attaches to the formation of a new staff?—That is so, no doubt. I think it is recognised in the public service sometimes that when through no fault of their own a staff finds itself blocked in that sort of way some special exceptions are made, and advantages are given which could not be allowed everywhere.

51,258. Towards the end of that statement it is represented that the Treasury have given as a ground for refusing improvements in the position of the staff, that there was no profit arising from the operations of the registry which would justify such an increase. Has that argument been used by the Treasury?—I am not sure whether it has been formally put forward in an official way, but it is no doubt the case that it is very difficult for us to get any increase of expenditure sanctioned as long as our surplus is so small as it is now.

51,259. The fees were fixed with the object of covering expenses and leaving a small surplus for the purpose of building up an insurance fund?—Yes.

51,260. That level of fees is a purely arbitrary level which can, if necessary, be altered?—Yes.

51,261. Would you say that it is not a reasonable position to take up, that the question of the payment of the staff ought to depend on the presence or the absence of a surplus?—I think it is a very unsatisfactory position to take up, that the payment of the staff should depend upon the existence of a surplus in the revenue of the office, because to do the office work efficiently requires a certain amount of what you may call capital expenditure. The expenses now in these early years, comparatively speaking, of the office are much heavier than they will be later on. The expenses of first registration are far heavier than those of subsequent dealings with land, and it places the present staff in a much worse position than the staff will be in the future if you adhere to that rule rigidly.

51,262. If that principle were adopted, would it not also imply paying the staff more liberally in offices of the State where a large profit is made?—It would seem to follow.

51,263. In the case of Government offices, where profits depend, I think I may say in all cases, upon fees or taxes or rates fixed arbitrarily, is not the only possible principle to adopt that the staff should be paid a reasonable remuneration for their services, entirely apart from the question of profit or absence of profit?—I feel that very strongly.

51,264. The Commission have also received a representation from the clerks of the third class. Have you seen that document?—Yes.

51,265. The principal representations are as regards the rates of pay, and also, again, as regards the prospects of promotion. Have you made any comparison between the rate of promotion in the Land Registry and in the departments of the Supreme Court?—I have not made any exhaustive comparison, but I have noticed what people say about the usual rates, and I think the rate of promotion in the Land Registry is probably slower than in the Supreme Court.

51,266. We find that almost every department alleges that its rate of promotion is slower than that of any other, and it would therefore seem necessary to make an actual comparison in order to arrive at the facts. You have not, in fact, made such a comparison?—No, and I have not the materials.

51,267. Towards the end of that statement they refer to a scheme for raising the maximum of the third class clerks after 15 years' service. Is that a scheme which you put forward?—Yes, I put it forward not, perhaps, as the best thing which I could wish for, but as the most which I thought we could get.

51,268. Was it in the nature of compensation, so to speak, for the absence of promotion?—Yes.

51,269. That after long service in that grade there should be some increase in the maximum?—Yes.

51,270. Do you think, that the third class clerks have a case for some improvement in their position?—Yes, I do, personally.

51,271. Turning now to the question of the conditions of service in the office, do the ordinary Civil Service rules, as regards hours of attendance, leave, sick-leave, and so forth, apply?—Generally speaking, the office proceeds on the analogy of the Civil Service in those matters.

51,272. What are the hours of attendance?—From 10 to 5 all through the year.

51,273. Have you an attendance-book?—Yes, we keep attendance-books.

51,274. Are they regularly scrutinised?—Yes, regularly looked over and noted every day. As a matter of curiosity, I had a portion of them looked over the other day for this inquiry, and I found, as regards arrival in the morning, that, owing to some of the members of the staff coming before the time, our punctuality is really a minute or two to the good.

51,275. Is the time of departure recorded?—Yes, it is recorded, but it is very rare for them to go away before 5 o'clock, and then it is only done by special leave from the head of the department, who gives leave if the state of business admits of it.

51,276. Is there much seasonal variation in the work of the office?—There is very great variation. I have had prepared four little charts of the four different

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branches of work in the office, which I will hand in. They show, roughly, that in the last 12 months before the war, the biggest month was double the smallest month. In May 1914 we took 781 first registrations, that is 30 a day; whereas in February previous we only took 393, which is 16 a day.

51,277. Can you adjust your staff to that by the corresponding allotment of leave periods?—Yes; it is managed in various ways. We arrange that the whole staff shall always be there at quarter days, for instance, and the periods immediately following quarter days, and we try to arrange the leave as far as possible when the work is slack. Those are the two principal ways of getting over the difficulty. No doubt one has to allow a little bit more of arrears when work is very heavy than one does when it is light. There is also a certain amount of internal work in the office, indexing, reviewing, putting things in order, and going over old work, which can be done when the current work is light.

51,278. Does the usual Civil Service age limit apply to the registry?—I am not aware of any absolute rule, but, as a fact, on appointment, I think all the present permanent staff have accepted liability to compulsory retirement at 65.

51,279. Do you consider that the Orders in Council governing the Civil Service generally apply to your department?—That is a matter upon which I have never been able to form an exact opinion. I think Sir Kenneth Muir Mackenzie's view would govern the matter, as we are a Lord Chancellor's department.

51,280. The staff is all pensionable except in the Map Department?—Except the Map Department and the attendants, and the boy clerks, and the writers.

51,281. Taking the staff generally, do you see any reason why the ordinary Civil Service rule should not apply; that is to say, you may retire at 60 and must retire at 65, but there is a power in very special cases of prolonging services beyond 65 to 70?—I think 65 is rather an early retiring age for legal posts. Legal knowledge is slowly acquired, and remains available almost indefinitely. The registrar's position is, to a great extent, judicial. Most judicial appointments have no age limit. Neither of my predecessors were subject to an age limit.

51,282. Did they remain much beyond the age of 65?—Yes, both of them.

51,283. Do you apply those observations to the superior staff of the office generally as well as to the registrar?—Yes, I think the whole of the superior staff of the office would probably be the sort of men who would keep on becoming more useful after 65.

51,284. From the statements to which I have called your attention, it appears that there is considerable complaint in the office about the slowness of promotion. Would not the absence of an age limit tend to increase the grounds for that complaint?—Yes, I am afraid it would not help that difficulty.

51,285. From that point of view there is some argument in favour of having an age limit?—No doubt.

51,286. In any case, leaving aside for the moment the position of the registrar himself, which, as you pointed out, is semi-judicial?—And the assistant registrars, I may say, because they take the same duties as the registrar in his absence.

51,287. So far as the registrar's work is judicial, they have a judicial capacity also?—Yes.

51,288. Taking the rest of the staff, can you say that the knowledge that is possessed by a man of 65 is so exceptional that his place cannot be perfectly well supplied by fresh accessions to the office?—I would not wish to put it quite so high as that, but I think he would go on improving after that age. I have had experience of clerks over that age, and I have found that their recollection of things that had happened a long time ago, and their general familiarity with all the proceedings over a long period, was very substantially useful very often.

51,289. (Mr. Coward.) Their memory of past events is better than their memory of those of a recent date, as a rule, is it not? The older the man the further back does he remember with accuracy?—Yes, one

notices that. One remembers things which happened when one was young sometimes better than things which have happened recently.

51,290. I should be disposed to agree with you, that if you wanted to ask advice on a legal matter the man you would go to, as a rule, would be the older man; you would expect to get more mature judgment from him?—Yes.

51,291. (Chairman.) On the other hand, is not there often some failure of energy and powers after the age of 65?—No doubt there are failures of power after 65, and there is a tendency for it to become commoner as age increases; but, at the same time, it is all a question of degree. My own opinion with regard to people who have had legal experience, and looking at the way the profession work, it is that certainly the men over 65 have nothing to fear from those who are between that age and 60 or 55.

51,292. At present you have no one in the office who has reached the age of 60?—Except one writer, who is about that age, but he is paid in another way.

51,293. So that the question has not been one which you have had practically to face in the past?—No.

51,294. Apart from the points which have come up in the course of your evidence, have you any other suggestions to make with regard to the organisation of the office, or other matters?—May I say a word on the subject of competitive examination generally, though it is perhaps rather outside my own department? For appointments not requiring technical training or experience, I think it would be useful if some way could be found of giving more influence to the recommendations of masters and tutors in the schools and universities. Competitive examination tests principally intellect and a certain kind of industry: what you want in the public service, or, indeed, in any business undertaking, is not only intellect but judgment, good feeling, general ability, and power to manage others. These qualities are pretty clearly exhibited at school and college, and are very well known to the masters and tutors, and, I think, if some way could be found of utilising the competent and disinterested judgment of those gentlemen in the selection of Civil servants both in the higher and the lower branches, it would be a great advantage.

51,295. Have you any suggestions to make as to the relations of your department with other departments?—I think considerable economy would be effected, and the needs of the public would be considerably better served, if a closer official relationship could be established between the Cadastral Survey, the Land Valuation Office, and the Land Registry. In saying this, I hasten to add that the relationships of the Land Registry with the two other departments have always been of the pleasantest and most cordial. But after 25 years' experience I feel very strongly that a more direct official recognition of the close relationship which exists between our several functions would be a great advantage to us all. We work in the same material; we are customers one of another; we ought to have regular and fairly frequent means of communication and co-operation together. A joint board, composed of the working heads of each of our three departments, occurs to me as a possible expedient. Its functions would correspond very nearly to those of the original Commissioners of Domesday, and if that name were given to it a popular and eminently respectable status for the Board as a whole would result. Ultimately I should imagine that all three might usefully be grouped together under the Land Department.

51,296. Does the work of the Land Valuation Department involve to some extent a record of title, or, at any rate, of possession?—They want to know who is the owner, in a certain technical sense, of every bit of land in the country, and we contain in our office information which would be of great use to them and would greatly ease the public in the administration of their department. For instance, if there had been a Land Registry all over England a few years ago, all the trouble, or nearly all, that was caused by the celebrated Form IV. going through the country would have been saved, because we could have communicated it to the Land Valuation Department without troubling

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anybody. Again, we contain all the deeds of sale and mortgage of the lands that we have on our books. Those would give useful information to the Land Valuation Department. We could tell them of the changes of ownership, and so on. At present we have no means of doing that; in fact, we are prevented by Act of Parliament. I think it would be very advisable if that barrier were broken down. Of course, the Ordnance Survey is required by both of us.

51,297. Does the Land Valuation Department use maps for recording the properties with which they deal?—Yes. At first it was thought, I believe, that they could do without maps, but they had not been at work very long before they found that maps were absolutely necessary. It was the only way of knowing that you had got the whole of the land in your schedules.

51,298. It appears, then, that the operations of the three departments you have mentioned overlap to a considerable extent?—Yes, I really think they do. I think we, probably, are all doing work to a certain extent which is done by the others.

51,299. Are there any other points that you would wish to mention?—No; I have no other suggestion to make.

51,300. (Mr. Boutwood.) You said, I think, that a certain number of your second class clerks have been called to the Bar?—Yes.

51,301. Were they called before they were appointed, or afterwards?—Those now in the second class were all called after their appointment.

51,302. We were told the other day that in another legal office clerks who wished to be called to the Bar could not be called, owing to some principle that clerks in legal offices could not be called. How did your men manage it?—I have never heard of that difficulty.

51,303. With regard to the suggested committee, I suppose that what you really meant was, that the head of a department, if he made a bad appointment or a bad promotion, would, as you said, be making a rod for his own back, but the committee in that position would not be making a rod for its back?—Yes; that expresses it very well.

51,304. (Mr. Graham Wallas.) Your secretary acts in a capacity which in other Government departments is called that of chief clerk; that is to say, he takes the details of organisation and discipline off the shoulders of his chief?—Yes.

51,305. As far as my experience goes, yours is the only legal department in which that system exists. Your experience suggests that it is a very great advantage?—Certainly. All the things that the secretary does, I think I may fairly say, or nearly all the things that he does now, were things at one time or other, when the department was smaller, I used to do myself, and it was the gradual growth of my own work in other ways that made it necessary to find someone to do them for me.

51,306. Do you think if the other heads of the legal departments would follow you in devolving that work they would find great advantage from it?—So far as one can guess how other people's work would fit in with such an arrangement.

51,307. You say one of your writers is something above 60. Do you know how much above 60 he is?—I could not say off-hand.

51,308. As a matter of fact, although piece-workers are paid by the piece, you do not get rid of any of them if they behave well?—No, there is no system of getting rid of writers on account of age.

51,309. But you do not treat the question whether you will take on the same writer each day as an open question; you try to keep them going?—Yes, they are regularly employed.

51,310. Therefore the time will come when they will all have become rather old. Have you any plan in your mind what to do with them?—I am afraid I have not.

51,311. It will be a serious difficulty, will it not?—No doubt it is a difficulty when a man who has been a good servant gets rather past his work, but in the work that writers do it is less inconvenient than in any other

case, because they simply earn less, and finally, I suppose, one says, had they not better leave off.

51,312. You say in your memorandum that the appointment of boy clerks is usually left to the Civil Service Commission. Is it not a fact that the whole of your boy clerks are appointed by the Civil Service Commission?—All the present boy clerks came through the Civil Service Commission, but we used to have some appointed otherwise.

51,313. And all the assistant clerks now come from the Civil Service Commission?—Yes, now.

51,314. You have a very large business in preparing maps, plans, and so on, and there is a big technical art which rapidly develops with regard to the preparation of maps and plans. Do you ever receive from any Government office, such as the Stationery Office, any suggestions for improvements?—In regard to the preparation of maps and plans?

51,315. You have to prepare first temporarily and then finally in some permanent form an immense crowd of plans. Engineers, for instance, use photography very largely for the purpose of preparing what they call blue drawings?—Yes.

51,316. Have you any systematic method of trying to follow the development of applied science in that respect?—Yes, we have through our connection with the Ordnance Survey. I do not think there would be any great improvement in the reproduction of maps that we should not hear of from the officers of the Ordnance Survey with whom we often correspond. Also some of our own surveyors are very intelligent and up-to-date men, and from time to time they tell me of improvements. We do a good deal in the way of lithography and new processes.

51,317. (Chairman.) Is the actual reproduction and printing of your own maps done by yourselves or by the Ordnance Survey printing office?—Partly by the Ordnance Survey and partly by lithographers whom we employ.

51,318. (Mr. Graham Wallas.) You told us that you thought in the matter of appointment it would be wise for the office to rely much more than it does at present upon the disinterested judgment of schoolmasters and tutors. Does your experience of testimonials suggest that they are invariably disinterested?—What I was saying then was rather in the way of a general observation. I understand that this Commission wishes to know what suggestions anybody might have to make as to the general principle for recruitment of the Civil Service, and it has often seemed to me in thinking the matter over, that in the competitive examination, which now practically determines admission to the Civil Service and the order in which applicants are admitted, some value should be given (perhaps in the shape of marks added to the other marks) for the recommendations of the tutors and masters in the schools from which the candidates come. That is what I wanted to express.

51,319. You do not think that under such a system—a man knowing that a certain number of superlative adjectives in his testimonial would give a certain number of marks—there might arise in the testimonials a personal variation in inverse proportion to the moral character of the tutor or master?—Well, I believe people in business now resort very much to the universities and schools for recommendations.

51,320. But with a good deal of personal precaution; they do not have a mechanical system of giving marks?—That is true.

51,321. You suggested that if your Joint Board were called the "Commissioners of Domesday," it would acquire a popular status?—I did.

51,322. Does your recollection of contemporary documents indicate that the Commissioners of Domesday were at the time popular?—I know there is a passage often quoted rather to the other effect.

51,323. (Mr. Coward.) At the present moment the estimate for 1914–15 for your branch is 40,121*l*. Have you given any consideration to what it would cost if the whole kingdom were under the Land Registry Act?—Yes, I have—not very recently, but from time to time I have gone into it. Of course it would have to

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be with certain improvements in detail, and perhaps slight alterations in the organisation. I cannot quite remember what figure I brought it out at, but I could put it into the notes if you would like to have it. Roughly speaking, I should estimate the work would be about seven times the work that we do; so that the total estimates would be well within seven times the present estimate. That is very roughly so.

51,324. I notice that the number of boys employed was 19 in 1913-14, and it is eight this year. It would interest me to know how it comes about that there is so great a divergence?—The reason was partly that we found that we were having too much responsible work given to boys, and we had to level it up a little, and as they left we had assistant clerks instead.

51,325. With regard to the female typists, is it not your experience that they are excellent?—Certainly.

51,326. I should say they are better than the men?—I have no experience of employing men typists, so I could not compare them, but I have nothing whatever to suggest in the way of improvement.

51,327. (Chairman.) With reference to Mr. Coward's question, did you state in evidence before the Commission on the Land Transfer Acts, that the cost of the establishment for dealing with land registration all over the country—which, I suppose, means all over England and Wales—would be from 300,000*l.* to 400,000*l.* a year. I am reading from the Report and not from the evidence?—I should like to refer to the passage myself, and see quite in what sense the estimate had been made, because there are so many ways of estimating.

51,328. (Sir John Kempe.) With regard to your suggestion that you should have closer relations with two other offices, of course the Land Valuation Department is entirely a revenue department; that is its main object?—Its main object at the present moment is revenue.

51,329. Your only common ground is that you both have to keep a register of all the properties in the kingdom?—That is our principal common ground.

51,330. That is the only common ground. You do not have anything to do with the valuation or the revenue?—Except that valuation touches us a little because our fees are according to value, and we might sometimes find it useful to know the value of land.

51,331. Still you would not value the whole country for that purpose?—Certainly not.

51,332. Your relations could not come into conjunction until you have registered the whole country. Pieces are no use to the Land Valuation Department, they must have the whole country?—In London we have been of use to them already, and in Middlesex also. We have been able to supply them with revised maps, for instance, which they very much wanted. We could, if we had been at liberty to give to them the information, have supplied them with the names of the owners of a large quantity of land in that county, which would have been useful to them.

51,333. You said you might have an opportunity of working in common, and in time you thought you might take over the whole of the department.* That, of course, would leave the revenue in the hands of the Inland Revenue, and you would be the sole authority in the kingdom for keeping a register of the whole of the property. The valuation would have to be made by a separate body?—Yes, but I think it would have an advantage in one way if the valuation was not a part of the Inland Revenue, because it would give it a greater independence.

51,334. The Inland Revenue, you mean, would be able to trust a separate body to do the valuation rather than their own staff?—I mean, sometimes I have heard it said that the Valuation Department, to make a branch of the Inland Revenue, is really making the Inland Revenue a judge in their own case. Now, if the Valuation Department were separated from the Inland Revenue, and made part of a purely statistical Land

Department, it would, in some cases, I think, be in a better position.

51,335. You have no facilities for getting the values in the way you go to work?—In this sense we have—that we see all the sales. The value is given on all sales.

51,336. I am afraid the Inland Revenue do not go upon sales?—Not exclusively, no.

51,337. Your proposal in regard to the staff is, that you should treat the upper part of the staff as professionals, so to speak, and the lower part as clerks, more or less?—Yes.

51,338. In the course of your evidence you said that now and then you give to the third class clerks—the lower class of clerk—work of more importance than the mere mechanical work. Is that only to those of the third class who have the right of rising? Could you cut them off altogether if you had two separate branches, one professional and one clerical?—I think if they were all originally recruited with that idea we could. The present third class clerks were recruited with the idea that they would become second and first class clerks, so that one could not, without injustice to the individuals who are now third class clerks, cut them off from the higher work; but my proposal with regard to future appointments is, that we should have two grades clearly divided.

51,339. You are quite clear that you could divide them absolutely? The great difficulty in the Civil Service has been the overlapping, from the very beginning, dating from the old copyist days. There is always the difficulty of overlapping, which gives a claim to clerks who are employed on higher work than they ought to be employed upon. Do you think that you could get rid of that in your office, and you could have a clear professional staff and a clear clerical staff?—I think the nature of our work divides very clearly into those two branches. I do not say that transfers from one to the other in exceptional cases might not sometimes be useful and possible, but it ought not to be an understood thing.

51,340. A man doing lower work, and given opportunity to display himself by doing higher work, immediately finds hopes upon that, and it extends to the whole class, and they all think they have a chance of rising?—It would be very rare.

51,341. You think your work is sufficiently distinct in the two branches to be able to avoid that?—I think so.

51,342. (Mr. Shipley.) A word or two about the suggestion on page 22 of your précis. You say you think it would be a good thing to give more influence to the recommendations of masters and tutors in the schools and universities. I was wondering what sort of posts they could fill. Would they be the first and second class clerks whom you would get from the universities?—I was speaking here of appointments not requiring technical training.

51,343. Not barristers?—No.

51,344. Would it be likely to attract university men? Is the salary sufficient? Some university men are very glad to get anything?—I include masters of schools and tutors in universities; so the idea would apply to every class of appointment.

51,345. Do you in effect take any measures to bribe before the notice of masters and tutors any vacancies?—It has not been my department to do that; we take our appointments from the Lord Chancellor.

51,346. Do you think he takes any such measures?—The initiative is not with us.

51,347. Do you think the Lord Chancellor or his secretary brings these vacancies before the various Appointment Boards which are connected with the various universities now?—This suggestion I make would involve that.

51,348. You say it would be a good thing to have closer relationships between the Land Valuation Office, the Land Registry, and the Cadastral Survey. What is the Cadastral Survey?—That is the large scale ordnance maps from 6 inches to the mile upwards—25 inch and 5 feet and 10 feet to the mile.

* My suggestion was in fact merely that closer relations should be established between the three departments [51,295]. C. F. B.

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51,349. That practically covers the Ordnance Survey?—It covers that, except the one mile to the inch—and other military and topographical maps and various special works of different kinds.

51,350. Is not the Ordnance Survey an army affair?—Yes, it is, I believe, entirely officered by Royal Engineer officers, but it is under the Board of Agriculture, so far as administration goes. It began with the War Office, but was transferred to the Board of Agriculture.

51,351. (*Chairman.*) Has it any military character now, except the fact that the superior officers in it are military officers?—Yes, and there is a strong military tradition in the administration of it. Mr. Musgrave has reminded me that one must not forget that the Ordnance Survey is very largely wanted for military purposes. It has to provide an enormous amount of information which nobody wants but the Army, such as the size of churches, wells, forges, and the things that an army wants to know about when going over the country.

51,352. (*Mr. Shipley.*) Is your office in the Law Courts?—It is in Lincoln's Inn Fields, just outside Lincoln's Inn. It is a separate building, built during the last ten years.

51,353. Is it pretty well up to date and well ventilated?—Yes, we feel that it is very comfortable and healthy, and it is rather roomy.

51,354. (*Mr. Matheson.*) It has been one of the objects of this Commission to get rid of boy labour that does not lead to any subsequent career. Have you thought at all whether in your Map Department it would be possible to reduce the number of boys to the number that could be absorbed in the higher ranks. Would it be possible to get the fetching and carrying done by retired soldiers, and then only employ enough boys to fill the places of draughtsmen as time went on?—I think it would be quite possible. Of course, it is recognised that it would be more expensive.

51,355. It would have to be rather more expensive?—Yes, it would cost more, but it would be quite possible to employ attendants to do that work.

51,356. The 22 boys you have at present is not an excessive number for the work that has to be done?—It is the cheapest way of getting the work done. It is a class of work which is very easily learnt, and for which boys are very suitable.

51,357. Elementary map work?—Yes, they do a little drawing, but mainly they go messages, keep papers in order, and make themselves generally useful.

51,358. But you think the work might be dealt with in the way I have suggested, possibly, if rather more money was spent?—Yes, it could be done by attendants certainly.

51,359. You have already been asked about the second class clerks. I was not quite clear from your answer whether all your second class clerks are persons who have qualified as solicitors or as barristers?—Not quite all, but very nearly all—all but three.

51,360. You think that qualification it is desirable so far as possible to retain?—In the large majority of cases it is desirable, but one of those three is the secretary, and he does not require legal technical knowledge.

51,361. (*Sir Donald MacAlister.*) I understand that your clerks as at present appointed all have the expectation that they will be considered for promotion right up to the top of the office?—Those who came in as third class clerks had no doubt a feeling that the career before them was substantially much the same as that in the Supreme Court, and a clerk in the Supreme Court has a reasonable expectation of becoming a first class clerk.

51,362. And assistant registrar?—There, I think, it is not quite so certain, but at any rate, up to the first class, there is reasonable expectation in the regular course of promotion in time.

51,363. Is the work of the first class clerk to which the third class clerk might aspire essentially different from that of an assistant registrar?—The assistant registrar has to have a qualification under the Act.

51,364. I asked you, is the work essentially different?—I think it is rather a question of degree than of any essential difference. One wants a higher degree of efficiency in an assistant registrar

51,365. Apart from the qualification you have referred to, a first class clerk might perfectly well perform the duties of assistant registrar if he was otherwise eligible?—Yes.

51,366. Are you in favour of retaining the statutory qualification for assistant registrar?—As a matter of fact, the assistant registrars have generally got considerably higher qualifications than the statutory one, and I think practically always, by the time a man comes to be an assistant registrar, he has a great deal more than five years' standing at the Bar. I think it is a good thing to keep up that amount of statutory qualification in the higher offices.

51,367. It means that the assistant registrar must in all cases be appointed from the outside?—No, not necessarily; in fact, they seldom have been, because there are usually men with that qualification already in the office.

51,368. With the qualification of solicitor or barrister?—Yes.

51,369. Did I understand you to say that you have not experienced any difficulty in regard to your staff in their acquiring that qualification while they are in junior positions?—What I tried to convey was that the junior work is not of a character to teach men the superior work.

51,370. I am speaking of the statutory qualification. The position of barrister can be acquired by some of your clerks?—Men can be called to the Bar from the office, yes.

51,371. And that constitutes the qualification?—To be called to the Bar.

51,372. To become assistant registrar?—The statutory qualification, yes.

51,373. So that a second class clerk, if there was no difficulty in the way, might be called to the Bar while he was a second class clerk, and thus possess all the statutory qualifications required for the post of assistant registrar?—Yes, he might do that.

51,374. So being called to the Bar is rather a technical than a real qualification?—It is rather.

51,375. It does not involve any practice as a barrister?—It is not necessary. He is not by the Act obliged to have any practice, but I should think as a general rule a man would be unlikely to be appointed an assistant registrar who had not had practice, but there I am trenching on what is a matter for the Lord Chancellor.

51,376. (*Mr. Coward.*) He has to pass the examinations?—Yes.

51,377. (*Sir Donald MacAlister.*) He has to pass those examinations while a second or third class clerk, and when called to the Bar he retains that, so to speak, latent qualification which he never uses, and at some time, when the question of appointing an assistant registrar comes up, he produces the qualification?—Yes.

51,378. But it never has been put to any use in practice?—Not in that sense.

51,379. So it seems rather a technical qualification, except for the fact that it involves his having studied and passed the examinations?—Yes.

51,380. (*Mr. Graham Wallas.*) The fees are quite real from the point of view of a second class clerk?—Yes.

51,381. (*Sir Donald MacAlister.*) The fees are more than technical?—Yes.

51,382. You spoke of the question of promotion, which has not been a very active question in your department, because not very much promotion has taken place of late years?—Not of late years.

51,383. You make a somewhat striking suggestion that, of course, ability should be the first consideration, but that seniority should come a very good second?—Yes, that is my feeling, broadly.

51,384. There has never been a case in your office where seniority has not been allowed to count in deciding the question?—Other things being equal, seniority would, of course, count.

51,385. The other things would, however, always be equal?—A very large proportion of our promotions have been by selection and not by seniority.

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51,386. Do you mean that the senior has been passed over?—Yes, there have been a good many cases of that.

51,387. In your own office?—Yes.

51,388. But when a man has been passed over once you would hesitate to pass him over a second time?—Yes. One does not want to pass over a man too often if he has got any good in him at all.

51,389. Seniority then must play a very strong part in your consideration. If a man is not good enough to be promoted to a vacant office, it practically means that you only postpone him, and he is quite certain of being promoted later?—I think I might say that there have been one or two who several times have been passed over and are likely to be always passed over, in regard to my recommendation, at any rate.

51,390. One would not have gathered that by reading your précis?—I am glad to have the opportunity of correcting it.

51,391. (*Miss Haldane*.) I gather that the only women employed in your office are typists, and I want to know whether you think women might suitably be employed in other capacities in your office?—I have not considered the matter very carefully until just recently in connection with the war. I have been considering whether, at any rate, now—and it might, of course, be carried on afterwards—certain departments might employ women with advantage.

51,392. Have you taken any other steps beyond considering the matter with regard to employing women? Have you employed any women as yet?—We have not yet got to it, but I am at this very moment intending in a few days' time to make inquiries as to the terms on which we could employ women.

51,393. I understand this is a very pressing matter at this particular time, but I want to know in what capacity you would anticipate employing women—as third class clerks?—I think one would begin them with duties that did not require technical education, so I believe it would be rather in the simpler and more routine kind of work.

51,394. I suppose they could do the work of third class clerks without very much instruction, they would soon learn?—It would be that type of work and that of an assistant clerk.

51,395. Supposing there are no technical objections, do you think they could be suitably employed as third class clerks?—I see no objection in principle.

51,396. Indexing, and so on, is not done by women at present?—No, not at all.

51,397. That is work, I suppose, that women could do well?—I should think so.

51,398. Then as regards mapping, is not a good deal of map work done in outside firms by women?—I think I have heard of it being done by women—drawing perhaps rather than surveying. The copying of maps I think is done by women in business.

51,399. Then as regards the boys, do those boys attend evening schools or in any way carry on their education?—The boys and the assistant clerks have for a long time been in the habit of going to colleges and places of that sort, where they are prepared for higher examinations, and recently, at the suggestion of the London County Council, we have started an evening class for such of the boys and younger members of the staff as are willing to join it, and are not having any other courses of education.

51,400. So that you make it practically compulsory for them to go on with their education in some form or another?—Not exactly compulsory, but we give them every facility for doing it.

51,401. Otherwise, it seems rather a blind-alley occupation?—Yes, the occupation of a boy in the Map Department is of that nature. Their parents are told before they are engaged that we do not see much chance of providing them with work afterwards ourselves, and that they must look to what they can get outside in the world.

51,402. The writers you employ on piecework are all men?—Yes, all men.

51,403. Do you give out no work to women?—No, there is no work given out.

51,404. Is there any particular reason for that, or is that just from custom?—Only from custom.

51,405. I think you only employ one male typist?—That is so.

51,406. And that, I suppose, is somewhat accidental?—I think it is because he is wanted in a room where only men are employed, and, so far, we have kept the staff of women in separate rooms by themselves.

Mr. ARTHUR DENMAN (Clerk of Assize of the South Eastern Circuit), called and examined.

51,407. (*Chairman*.) You are Clerk of Assize of the South Eastern Circuit?—Yes.

51,408. How long have you held that office?—Twenty-seven years, less one month.

51,409. You are the senior of the clerks of assize?—Yes, I have that honour.

51,410. How many clerks of assize are there altogether?—There are seven circuits and eight clerks of assize; that is to say, the North and South Wales Circuit is divided into two divisions, each of which has a clerk of assize, and therefore there are eight clerks of assize.

51,411. Their salaries are fixed on the scale recommended by the Committee of 1887?—That is so. The salary of the clerk of assize of the Northern Circuit is 1,000*l.*; the salary of the clerk of assize of all the other circuits, excepting the Welsh Circuit, is 800*l.*, and the salaries of each of the clerks of assize of the Welsh divisions is 500*l.*

51,412. What other officers are there on each circuit subordinate to the clerks of assize?—There are two officers subordinate to the clerk of assize. The officers are really deputies; that is to say, in the clerk of assize are embodied all the offices of "clerk of the Crown, associate, clerk of indictments, and clerk of arraigns, and any other office the duties of which are performed by the clerk of assize." That is by Section 8 of the Clerks of Assize Act, 1869. There are actually two subordinate officers and one bailiff.

51,413. The subordinate officers being termed "Associate" and "Clerk of Indictments"?—Yes. They are variously termed on different circuits, but inaccur-

ately other than that. The duties originally were performed by a clerk of indictments, an associate, and a taxing officer. On the reduction of the staff, those duties had to be distributed according to the necessities of the case. There is no such officer now as a taxing officer, but the duties of the taxing officer are performed indifferently, and as occasion may require, by one or other of the officers. Therefore, there is the clerk of assize and his two officers; and he puts upon them, with consideration, such duties as are required to be performed.

51,414. The two officers are differently designated on different circuits?—They are usually called "Clerk of Indictments" and "Associate."

51,415. They act as deputies to the clerk of assize and perform certain parts of the work?—They do not act as *deputies* except under special appointment. All the official documents have to be signed by the clerk of assize, and one particular thing—a certificate of indictment found, which has to be signed by the clerk of indictments—is signed by the clerk of assize as clerk of indictments. As I explained, the clerk of assize is clerk of indictments, he is associate, he is clerk of the Crown, and all those things in his office; but these particular officers are primarily designated by the names of the offices which they hold.

51,416. The salary of those officers does not rise above a maximum of 300*l.* a year?—Except that I find in Whitaker's Almanack, that on the Northern Circuit the associate gets 500*l.* Of course the Northern Circuit is different; they have, I think, four civil assizes, and I understand that the civil work is very much heavier on it than on any other circuit.

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51,417. There appear to be certain cases in which the officers have salaries exceeding 300*l.* a year, but those salaries are to be reduced on the next vacancy?—I did not know that. I can only speak for my own circuit first hand. The subordinate officers start at 200*l.* a year, and rise by 20*l.* a year to 300*l.* a year, which, I take this opportunity of saying, is to my mind wholly inadequate.

51,418. Is the clerk of assize required to give his whole time to the duties of his office?—During circuit he is exceedingly busy, and his is very responsible work. In between circuits he has to see that the work is done, but there is no regular attendance required, or anything of that sort. As long as the work is done and goes right, he has no further responsibility; I mean he is not an officer of the High Court of Justice.

51,419. How much of the year do the circuits occupy?—I gave evidence before the Royal Commission on Legal Delay, and I worked out that the actual days occupied from the start of the circuits in the years 1910–11–12, were 171, 175 and 171—that is five months and 22 days of the year. There is, of course, the Long Vacation. Before each circuit, certainly for a fortnight, the clerk of assize is very busy, and after circuit, especially now that the Criminal Appeal Act is in force, he is also busy. At other times there is something to be done every day throughout the year, but his attendance at regular hours is not, of course, required; still he must have clerks or keep officers there.

51,420. Has he an office in London?—Yes, we all have chambers. One, Mr. Stephen Coleridge, has an office at the Royal Courts of Justice; the others have chambers.

51,421. Do you have to provide those yourself?—My own case is very exceptional. When I was appointed there was a question of amalgamating the two divisions of the circuit, and my predecessor, who had 95*l.* a year, was succeeded by myself, and they reduced the salary to 300*l.* in 1887, and, in consideration of that very big drop, they allowed me chambers. On my own circuit I am doing the work for which, the day before I was appointed, the salary was 1,853*l.* for 800*l.*, so there has been a very considerable saving.

51,422. Speaking generally, apart from that exceptional case, the clerks of assize are not provided with offices?—I believe the clerk of assize for the North-Eastern Circuit has an allowance of 50*l.* My allowance, I think, is 70*l.*, and 25*l.* for postage, so I get about 95*l.* altogether. The clerk of assize to the Western Circuit has 50*l.*, and of the Oxford Circuit 50*l.*

51,423. That is an allowance for office expenses?—Yes; office and postage. I should say that mine is exceeded considerably nearly every year.

51,424. Where are your records kept?—Those were, I hope, admirably kept. I had them chronologically arranged since 1700, and I had them all down in my basement at chambers in perfect order. The Public Record Office took them over about two years ago. I believe some of them were pulped; those up to 20 years ago are now in the Public Record Office.

51,425. The records of the last 20 years you keep still in your own chambers?—They have to go to the Record Office every 10 years. I have them for the last 15 years—I forget exactly what the arrangement is. I have not them for more than 20 years, certainly.

51,426. Does the same arrangement apply to all the clerks of assize, that each clerk keeps the records of his own office?—Yes; but only for the last, not more than, 20 years.

51,427. Records older than that go to the Public Record Office?—Yes.

51,428. During such time as is not occupied by the duties of his office may the clerk of assize do what he likes?—He is at liberty, except for the provision of the Statute 33 Henry VIII., Chapter 24, Section 6, which enacts that the clerk of assize shall not be of counsel on the circuit whereof he is for the time being clerk of assize “duryng the onlye time of the session of or for anye assize.” Practically, it never occurs that anyone offers one a brief at all. I have had two offered me on my old Midland Circuit, which I refused.

51,429. Do any of your colleagues practise?—I know of none at all.

51,430. What is the case as regards the subordinate officers?—They can practise. I have had an associate who was a solicitor, and he practised in London. He was succeeded by an associate who was a barrister on the circuit, and he practised at County Courts on the circuit. I do not think that is a good plan, because it brought him in contact with the local solicitors and others, and he might have used undue influence. I did not think it was right, and I resisted it as much as I could, but I was powerless.

51,431. Do the subordinate officers have as much work outside the assizes as the clerk himself has?—No, I do not think so. In my case, the clerk of indictments, or, rather, the most experienced officer, is very often called upon to advise and consult about questions from Government offices and that sort of thing. The associate has very little circuit work in between whiles, but then, if the associate were the more experienced officer, I should call upon him, as two heads are often better than one in replying to Government offices. I may have, perhaps, to submit a letter and a proposed reply, and that sort of thing, and am glad to have the advice of the best man; but the associate, as a rule, has very little to do between circuits.

51,432. As regards the appointment of clerks of assize, taking them first, who is the appointing authority?—The senior judge going the circuit has the appointment.

51,433. Is that under the Act of 1884?—Yes.

51,434. The section of that Act says that the appointment to certain offices, which include the clerk of assize, “shall henceforth be vested in the senior judge “going on such circuit for the winter and summer “assizes respectively.” What is the meaning of that?—The autumn assize is only a gaol delivery; there is no civil work, and the judges decided among themselves that it should not carry the patronage.

51,435. To what does the word “respectively” refer?—That is the summer and winter circuits respectively.

51,436. Then is it the case that the judge of the winter assize on any circuit appoints to a vacancy on that circuit until the Commission for the Summer Assize is signed?—I have always understood so.

51,437. And from that time onwards until the Winter Assize Commission is signed the judge on the summer circuit appoints?—That is so.

51,438. Who is the appointing authority for the subordinate officers?—That is the same under Section 21 of 47 and 48 Vict. chap. 61.

51,439. It is vested in the judge?—Yes, in the same manner exactly. Prior to 1884 the clerk of assize had the appointment of his subordinate officers. About that I feel exceedingly strongly, as the clerk of assize is responsible for the acts of all his officers, and yet a judge may come and may appoint anybody to be a subordinate officer.

51,440. You would prefer that the appointment should remain with the clerk of assize?—It ought never to have been taken away from him, but the judges in 1884 got it taken away.

51,441. Have you found any inconvenience resulting from that?—The gravest possible inconvenience. Without mentioning anybody, I have had two officers who have been nothing but a handicap to me and put me in the most awful position.

51,442. (*Lord Mersey.*) You had to get rid of one, I think?—One I had to threaten to get rid of. I had to get rid of two bailiffs, and the Treasury supported me.

51,443. (*Chairman.*) Has the clerk of assize the power of removal of his officers?—Yes, with the sanction of the Treasury.

51,444. Although it is the judge who appoints?—Yes, and in the case of those bailiffs, fortunately, the Treasury saw the justice of the dismissal, and I was relieved of them. But the same danger might occur at any time.

51,445. The duties of the clerk of assize are extensive and varied?—Very; and they are fairly set out in the Report dated 8th July 1869, of a Committee which sat to inquire into the whole office of clerks of assize just after a gentleman who had been a soldier was appointed by his father. They went into the matter very thoroughly. Sir Balliol Brett was the Chairman of

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that Committee, and Mr. Slater-Booth was also a member.

51,446. That statement is fully quoted in the Minutes of Evidence before the Committee of 1887 on the Central Office?—That is so.

51,447. It is unnecessary, I think, for our present purpose to go very minutely into the nature of the duties, but I will read one paragraph from that document which sums it up, and ask you to tell me whether that may be taken as a correct and complete statement: "From what has been before stated, it will be apparent that the whole of the administrative business of the criminal and nisi prius courts on circuit is vested in the clerk of assize. He is responsible for putting the entire machinery in motion, and for its correct working at every stage. He may personally perform any part of the duties of his office which he sees fit to undertake, and either attend as associate in the civil court, sit as clerk of arraigns in the Crown Court, or devote his time to the taxation of costs." Is that a fair summary of the duties?—That is so, and that is the responsibility which we have on us.

51,448. The clerk of assize is, of course, responsible for the officers and the satisfactory performance of their duties?—Absolutely responsible, and yet he has not the appointment of them.

51,449. What is your opinion as regards the present system of appointment of the clerks of assize?—I was not appointed by my father at all, although my name might suggest it; on the contrary, he was very angry with me for taking the post. Judges' sons are constantly appointed, and I maintain that there is nobody more likely to start with a knowledge of circuit business—and it is all circuit business—than the son of a judge who has been round with him as marshal, and talked with him and heard him talk about the conduct of assize business. The last thing I want to do is to mention the names of any persons who, being judges' sons, have been more or less incompetent. I have only known one or two cases where they have not shone exactly, and there is hope for all.

51,450. May one say that it has been recognised as a normal and proper thing for the judge who appoints, if he has a son, to appoint him?—I have been consulted by one judge as to whether it was right for him to appoint his own son.

51,451. May I ask what opinion you gave him?—I said if he did it I did not think there would be very much criticism about it, and he did it, and his son turned out to be a most excellent clerk of assize. The judges used to have an enormous amount of patronage; now they have nothing but the revising barristerships and the clerkships of assize.

51,452. Have the persons appointed, as a rule, been practising barristers?—I think, as a rule, they have. The Clerk of Assize Act was passed after the appointment of a Mr. Bovill, who had been a cavalry officer. He really did not know much about it at first.

51,453. Was he the son of a judge?—He was the son of a Lord Chief Justice, and that raised rather a scandal, because his military methods did not quite accord with the practice. That gave rise to discussion and the passing of the Act; but it has not made any difference in the number of judges' sons who have been appointed, nor in the efficiency of the conduct of the business, so far as I know.

51,454. You spoke of familiarity with the business of the circuit acquired through going as marshal?—It is superficial, but it is something. I know that it stood me in good stead when I first started.

51,455. Would not a barrister who practised on the circuit have a more useful knowledge of the work?—No, it is a different position if you sit up on a dais. It is extraordinary how different it is if I go and sit down in the well of the court and look up at the judge; it is a totally different thing. It is most extraordinary. As marshal you are behind the scenes, and you can turn over the papers and see all the confidential calendars and things.

51,456. But, as regards drawing indictments, for instance, would not the legal knowledge of a barrister practising in the court be more valuable than personal

knowledge?—Forgive me for saying that the clerk of assize does not draw indictments himself.

51,457. He is responsible for them?—He is responsible for them. He frames the indictment, in consultation, as to this or that count being added. After all these years I could not draw an indictment for false pretences with any degree of certainty properly. The clerk of indictments does that, but he would ask me whether it should be framed in this or that sort of way if he had any doubt.

51,458. But the technical form of the indictment is a matter of special knowledge?—Entirely so. I would not pretend to say that being a marshal had the slightest effect in that. Look how little some of the judges even know about indictments.

51,459. If the question were to be considered *de novo* without any reference to the past, would you suggest the present system of appointment as the most satisfactory one?—You mean, would it occur to me to suggest it as an original plan? I do not suppose it would, at all, but it has been in existence for a great number of years and has worked well. As far as my circuit goes, perhaps I should not hear complaints, but I do not think people complain very much of the way business is done on my circuit. A clerk of assize, although he is responsible, does not stand alone; if he has good officers with him they support him, and keep the thing on the right lines. The person who really might complain is the judge, who is, of course—saving Lord Mersey's presence—at times very reliant upon the clerk of assize.

51,460. Would not you say that the object in selecting a person for an appointment of that kind would be to select the most competent person?—I really do not think so, as long as he is competent. A man who is brought up in the traditions has a value in that office.

51,461. That might be one element in competence, but as between two men, would not you say that the more competent was the man who ought to be appointed?—It depends upon competence for that particular kind of work, and I do not know anyone who is more likely to be competent than he who has been round and seen how the work has been done from the elevated position of marshal. No clerk of assize will know all the technicalities of an indictment at first—he cannot; nor does a barrister. The indictments that are drawn by counsel, and handed in, are very few on my circuit, but they are almost invariably wrong, and have to be corrected by us, because it is technical work which the clerk of indictments by years and years of practice performs *currente calamo*, and the other man has to think out, as perhaps it is the first or second, or one of the half-dozen, indictments he has drawn in his life.

51,462. The suggestion has been made to the Commission with reference to other legal offices that the duty of appointing should be entrusted to a board or committee composed of a representative of the department concerned, of the Civil Service Commission, of the Lord Chancellor, and of the Treasury, and possibly an eminent solicitor. Can you express any opinion as to that suggestion?—I fail to see the advantages of it unless there is anything very wrong in the present system. I speak from a personal point of view. I do not think that at the time I was appointed it would have been a good plan; that is to say, nobody would have been more likely to know, or to have taken an interest in that kind of work, as much as I did. I do not say I was the best man at all, but I was fairly competent, I hope.

51,463. The present system, as you have told us, has produced appointments made largely on the ground of personal relationship?—you mean nepotism?

51,464. Yes. If the appointments were entrusted to a board of that kind, you would exclude those grounds of appointment, or, at any rate, there is much greater probability that you would exclude them?—You would deprive the judges of the little patronage which they have.

51,465. Yes but we are looking at the matter from the point of view of the appointment?—They each go

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circuit a certain number of times, and giving an appointment to a man that they know about, they would take advantage of the fact that he was a man they knew of, and could trust, and so on; whereas if you had a board, is the judgment of the board likely to be better than that of the judge himself? I should doubt it very much.

51,466. The board would not have the same family motives in making the appointment?—No, but it is not every judge who appoints his own son. The judge, perhaps, appoints the sons of others.

51,467. (*Lord Mersey.*) That may be because every judge has not got a son?—It may.

51,468. (*Chairman.*) You told me that the majority of the present clerks of assize had fathers who were judges?—I rather think there is a majority.

51,469. (*Lord Mersey.*) How many clerks of assize are there altogether?—Eight altogether. The Welsh circuit has two divisions, and there is one to each of those divisions. There are seven circuits. Mr. Bancroft is the son of an actor; Sir Herbert Stephen is the son of a judge; Mr. Wade is not the son of a judge; Mr. Grantham is the son of a judge; Mr. Channell is the son of a judge; Dr. Stubbs is not; Mr. Coleridge is the son of a judge—so there is a small majority.

51,470. Whose son is Dr. Stubbs?—I do not know, but he has nothing to do with a judge. Mr. Justice Bucknill appointed him. He is a Doctor of Laws and a very excellent clerk of assize.

51,471. Who was Mr. Wade?—He was the associate on the circuit. He came in, I think, under the recommendation, when the staff was reduced, that they should fill up the post of clerk of assize from the existing staff.

51,472. What is the statutory qualification for a clerk of assize?—Under Section 3 of the Clerk of Assize Act, "No person shall be appointed to be clerk of assize unless he has during a period of not less than three years been either a barrister-at-law in actual practice, special pleader or conveyancer in actual practice, or an attorney of one of the superior courts of law at Westminster in actual practice, or a subordinate officer of the clerk of assize on circuit."

51,473. Have there been any cases of appointment of a subordinate officer to be clerk of assize?—Yes, after the 1885 recommendation they filled up from subordinate officers the post of clerk of assize on the Western circuit. Mr. James Read, whom Lord Mersey will remember well, was a most excellent lawyer, trained at the Old Bailey, and made a very good clerk of assize, but I doubt if he would have been appointed clerk of assize in the ordinary way.

51,474. (*Mr. Coward.*) He was not a judge's son?—And, more than that, he was not either a barrister or a solicitor. He was a most excellent man and a most learned man.

51,475. (*Chairman.*) Would the work of the subordinate officers be such as to qualify them, from the practical point of view, to be appointed clerks of assize?—They are not brought into the same confidential relations with the judges as the others; they are in the office behind. We know what is the desirability for a clerk of assize, and the judges know. Some of them would do and some would not; they vary.

51,476. They would acquire familiarity with all the technical parts of the duties?—Yes. I have often had to put one of my subordinate officers into court when I have had to go out for some special business, or interview, or illness. Some of them know the work admirably—my clerk of indictments, who has been Deputy Clerk at the Old Bailey, knows the work far better than anybody else. One of my officers does not know it well, as yet, and it is a strain on him and something might go wrong if any point turned up in a moment—that is all—but he would pick it up, of course, if once in the post.

51,477. There is nothing to prevent the appointment of one of the subordinate officers if he is the most suitable person?—Nothing at all; in fact Mr. Wade was associate. Mr. Matthews, in 1889, on the Oxford Cir-

cuit came up in the same way; and Mr. Shuttleworth had been associate to his father before him. Neither of them were sons of judges, or had anything to do with them.

51,478. Are the clerks of assize pensionable?—No. It is a freehold office.

51,479. Nor their staff?—No.

51,480. Does any age limit apply to retirement?—No.

51,481. Has any inconvenience arisen from the absence of an age limit for retirement?—I think in some cases there has, but it has been got over. One associate of mine, Mr. Collisson, became rather old and suffered from illness, but he supplied a deputy to himself with my approval, and it worked all right; but, of course, it left very little for himself. It was arranged that somebody should do his work for him and take, I think, half his salary.

51,482. Have you known any case of a clerk of assize continuing to hold office when he was no longer capable of performing the duties?—Yes, there was one old gentleman, Mr. Wilde, who is dead now. His case was mentioned in the report of 1887. It was notorious that one gentleman never went near the place at all. Those were good old-fashioned times when they got a large salary and apparently did nothing.

51,483. You have known such cases?—There have been cases in the past where the gentlemen have not done as much as they do nowadays, or anything like it.

51,484. (*Mr. Coward.*) What became of the assizes in those times?—The clerk of assize then had three officers. The thing was over-staffed a little, and then they cut down not only the staff, but the salaries; and the subordinate officers, I think, are shockingly underpaid.

51,485. (*Chairman.*) The question has been raised in the past whether some combination might be made between the assize duties and the duties of some of the officers in the Supreme Court, in order to avoid the position of having officers like the clerks of assize and their staff who are fully employed for part of the year only?—Yes. That surely was before the Committee of 1887. They said they had considered the question, but could not come to any conclusion about it. They said: "As to the question whether it would be a better arrangement to amalgamate the staff of circuit officers with the Central Office, the Committee have not found themselves able to make any definite recommendation."

51,486. Are you prepared to express an opinion upon that point?—All I can say is, that when there is no circuit work the time of the associate might possibly with benefit be employed at the Royal Courts of Justice if there is sufficient work, but one could not spare any other officer.

51,487. You do not suggest any combination of the functions of the clerk of assize with a post in the Central Office?—He could not do it.

51,488. What do you say with regard to the final suggestion of the Committee of 1887, that there might be some combination of the circuit duties with those of the district registrars of the High Court or the district probate registrars?—We know nothing about the district registrars beyond this, that most inconveniently causes may be entered with the district registrar up to a certain time, and he frequently delays information, and we do not get it without having to telegraph for the lists, and so on. We have really no touch with them at all and know nothing about their work. There are ten circuit towns on my circuit alone, and as many on the Midland and other circuits, and an associate could not go wandering about to these places all the year round. I think an associate might be made use of with an adequate increase of salary in the High Court. I think that is quite a possible suggestion, but not the clerk of indictments nor certainly the clerk of assize.

51,489. And you think there is nothing in the suggestion to utilise the local registrars?—There is nothing in that at all.

51,490. Have you any observations to make as regards the present scales of salary?—I should like to say a great deal. 200*l.* a year for a man who, by the

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opinion of the judges, should be a barrister when he is appointed to one of these subordinate offices, is a wholly inadequate salary; it is neither one thing nor the other. It rises up to 300*l.*, and that is not enough. I would earnestly ask that the pay of the subordinate officers on such circuits as mine—I do not know what they are on the Welsh circuits—should be increased. The clerks of assize, of course, have had a great deal more work put upon them by different Acts, but till other people suggest it, I do not think I am here for the purpose of asking for money for ourselves, and I would rather not do it.

51,491. Both those questions, the salaries of the clerks of assize and the salaries of the subordinate officers, were fully inquired into by the Committee of 1887?—That is nearly 30 years ago. There was no Court of Criminal Appeal Act then, and the staffs have been reduced.

51,492. Have the changes since the date of that committee, such as the institution of the Court of Criminal Appeal, largely increased the work of the circuit staff?—Yes, most certainly; but it does not follow that because that committee gave that report it was quite a correct one on that point. If you come to think of it, the cost of living has increased—has it not?—in the last 30 years, and especially now. I only put it forward on behalf of the subordinate officers, for whom I have always strongly felt, and I had hoped when I was senior clerk of assize I could have got my brethren to memorialise on this. I think they are grossly underpaid.

51,493. Do they get allowances as well?—They get the same travelling allowances, when actually on circuit, as myself.

51,494. Although they are at liberty to do other work when their services are not required for the circuit, do you find in practice that they do not generally do it?—They can do literary work to a certain extent, but they could not follow any other profession, certainly.

51,495. Apart from the new work, such as has been produced by the creation of the Court of Criminal Appeal, has there been an increase in circuit business?—That is a very difficult point without going into figures extending back several years. The statistics which I return to the Home Office would show you better than I can now tell you. The difference is, that crimes are now far more intellectual crimes, the cases are longer and more complicated. There are not so many crimes of violence and drunkenness and that sort of thing; they are cases well thought out and intricate, and last a long time. As to the numbers I really cannot now tell you. I should think they have increased, but not enormously. Then, at the present time, there is hardly any crime.

51,496. Has the length of circuits increased?—Yes, certainly.

51,497. Is the greater part of your work criminal or civil?—I am responsible for all. I attend in close detail to all the criminal work, leaving the civil work, which, on my particular circuit, is inconsiderable, to the associate. Then, on the other hand, I make him tax the costs, which is a tedious and troublesome job, and hard work whilst the courts are sitting. Personally, I interfere but little in the civil work.

51,498. Does the greater length of the cases and the greater intellectuality of the crimes increase your work?—Most certainly. It is far more difficult to grasp. I have to read every deposition that comes in.

51,499. It increases the volume of the documents and papers that come to you?—Yes. Not only that, but there is constant watchfulness necessary under the Court of Criminal Appeal Act. Every document handed in has to be carefully watched by me, docketed and numbered and returned, and a receipt taken for it, and that sort of thing. Then there are returns to the Court of Criminal Appeal.

51,500. I am anxious to arrive at an understanding as to the increase of work. In the case of work on circuit, if the whole assize was occupied with one long trial, would your work be greater or less than if occupied with 20 short trials?—Very much less, of course. The first day of the business, when you get

there 20 or 25 prisoners, taking their pleas, and that sort of thing, is work that ought to be paid very highly. That is where the responsibility comes in. Absolute accuracy is necessary.

51,501. That is much heavier work?—Very much heavier. If you get a long case it is tedious; the clerk of assize, who sits there, can almost go to sleep, except that he has imprisonment orders and costs orders to make out. A long case is nothing after he has once got it prepared.

51,502. So that the long cases, while they are going on, do not increase the work?—No.

51,503. Except so far as they prolong the whole circuit?—Yes, they keep him away from his home, which is a consideration.

51,504. (*Mr. Graham Wallas.*) You say in your memorandum that the tenure of your office is freehold. Is the word "freehold" there a term of art? What does it exactly mean?—It is a term of art, perhaps. It means for life.

51,505. Does it mean as long as he behaves well?—Yes; he is removable by the Lord Chancellor, with the consent of the Treasury.

51,506. It is not a pensionable post in any sense; but I understand from you that a sort of arrangement, which is very like a pension, is arrived at in the case of subordinate officers. A subordinate officer when, as you say, he fails, provides a substitute acceptable to the clerk of assize, and then, as in the case you put to us, retains half his salary for himself and gives the other half to his deputy?—It is entirely a matter of arrangement. When a man who has served you and the office faithfully for 20 or 30 years is broken down by illness, it is rather hard to say: "Now you cannot come upon circuit, you have no pension, but you must go." So when that did occur, I said to the gentleman whom I knew to be a very good, honest old Churchman: "Let somebody come and take your place until you get better, and make your arrangements," and so on. Then he came to me quite as a friend, and said: "Will this arrangement and this man suit you?" and so on, and I said: "Yes, by all means." I think that was only common charity.

51,507. Then that arrangement so as to provide what is in effect a retiring allowance out of the salary has in some cases happened also in the case of clerks of assize?—In my particular case they were waiting till either I, or Mr. Platt, then 81, should die, to amalgamate the offices in the person of one. He happened to get very ill and in his dotage before he died. It was rather a scandal that he should go on, unable to write the books up, and so on, and one of the judges gently urged him to take better care of his health and let me do the work. So I became his deputy; but I only took one third of his salary from him.

51,508. The present arrangement is that there is a definite date at which the patronage of one judge comes to an end and the patronage of another judge begins?—Yes.

51,509. So it would not be contrary to precedent for it to be notorious that if an old gentleman died at one date an appointment would go to the nominee of one judge, and if he died a few days earlier it would go to the nominee of another?—That has happened.

51,510. You told us that the Inquiry of 1887 originated with the appointment of a gentleman who had been a cavalry officer?—Yes.

51,511. Would it be contrary to recent precedent if a gentleman should be appointed who had been for some years a tea-planter in the East?—Being a barrister?

51,512. Being a barrister?—I think I know the case you mean. I do not think it would be contrary to precedent, therefore. But may I say that that gentleman is at the present moment fighting in the trenches. I coached him myself for the circuit business, and two judges have told me afterwards that he was as good a clerk of assize as they had ever seen.

51,513. Mr. Coward has asked me to ask about a point arising out of the Estimates. In the Estimates for last year it is stated that the travelling expenses of the clerks of assize and their officers and fees of

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Mr. ARTHUR DENMAN.

[Continued.]

interpreters come to 4,725*l.*?—Yes, that represents a good many clerks of assize and a good many officers.

51,514. To each clerk of assize and officers that is almost exactly 600*l.* a year for each group. If the estimate was 4,800*l.*, and there are eight clerks of assize, that would be 600*l.* a year for each group?—Possibly, but you have left out their bailiffs, who get 10*s.* a day. A clerk of assize gets 30*s.* and his officers get 30*s.*, that is, 5*l.* a night for the four.

51,515. Do the fees to interpreters represent a large amount of that 4,725*l.*?—No, they would not be included in that at all. They are charged in my costs order on the county. I do not suppose that the interpreters on my circuit cost 5*l.* a year. They may at Liverpool, or that sort of place, be much more.

51,516. (*Sir John Kempe.*) You rather object to the power to appoint your second being taken away from you?—It was taken away three years before I was appointed.

51,517. You object to that, but you are aware that it is the rule throughout the Civil Service that nobody appoints his own clerks or officers; they are all selected by an outside body?—Yes, but are they responsible for them?

51,518. Responsible in the same way as you are responsible?—That I should much doubt. We are told by the Treasury that whatever is done by our officers we are responsible for.

51,519. In a different sense from a departmental sense?—I think it is.

51,520. You do not know why the change was made?—I do, indeed—because the judges wanted to get it into their own hands.

51,521. (*Mr. Shipley.*) You say in your précis, “it does not seem fair that a judge should have the power to appoint his butler to act as clerk of indictments to a clerk of assize.” Having had a good deal of evidence of what becomes of the butlers of Prime Ministers and members of the Cabinet, it would be interesting to know what becomes of the butlers of judges. Have they ever appointed a butler to act in this way?—They have been recommended, but not appointed, as bailiff; but that is a different thing. One bailiff whom I had to discharge in less than a month, shortly afterwards applied for the vacant post of clerk of indictments on the ground of his experience as a circuit officer.

ONE HUNDRED AND TWENTY-FIFTH DAY.

Wednesday, 14th April 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

SIR DONALD MACALISTER, K.C.B.

SIR JOHN ARROW KEMPE, K.C.B.

MR. ARTHUR BOUTWOOD.

MR. CECIL COWARD.

MR. PERCY EWING MATHESON.

MR. ARTHUR EVERETT SHIPLEY, F.R.S.

MR. PHILIP SNOWDEN, M.P.

MR. GRAHAM WALLAS.

MISS HALDANE.

MR. E. W. H. MILLAR (*Secretary*).

MR. BENJAMIN JAMES BRIDGEMAN, called and examined.

51,522. (*Chairman.*) You are Superintendent of the County Court Department of the Treasury?—I am.

51,523. How long have you held that post?—17 years last August.

51,524. You are, therefore, thoroughly familiar with the whole system of County Courts and their administration?—I think I ought to be.

51,525. Will you tell us first, briefly, the nature of the jurisdiction of the County Courts?—The present system of County Courts was established by an Act of 1846, the object being to provide an easy and uniform method of procedure for the recovery of small debts and demands at convenient centres throughout the country, so that in such cases no person might have to seek justice more than 10 miles from his residence or place of business. Originally the boundaries of the County Court districts corresponded with those of the superintendent registrars of births, marriages, and deaths; they have, however, been modified by Order in Council from time to time as local convenience suggested. County Courts were at first given a jurisdiction to try personal actions in which the debt or demand did not exceed 20*l.*, that being then the equivalent, or thereabouts, of the “40*s.*” jurisdiction conferred on the ancient County Court by Edward I. The amount was raised to 50*l.* in 1850, and to 100*l.* in 1903. Amounts in excess of this jurisdiction may be sued for, and the action tried in the County Court by the consent of the parties. The jurisdiction is concurrent with that of the High Court. General rules, prepared by a committee of five County Court judges, concurred in by the Rules Committee of the Supreme Court, and approved by the Lord Chancellor, prescribe a common method of procedure for all the County Courts. This procedure is by plaint or petition, hearing in court, and judgment. There are no pleadings. The judgment may be enforced against goods by warrant of execution,

or against the person by warrant of commitment, which can only be obtained after an order of the judge made on the hearing of a judgment summons. In the matter of serving summonses and enforcing judgments, each County Court acts in aid of all the others, thus, *e.g.*, a summons issued, or a judgment obtained at, say, Carlisle County Court, may be served or enforced by the high bailiff of, say, Dover County Court, and so on. Speaking generally, all process is prepared and served by the County Court, in this respect differing from the High Court, in which writs, &c., are prepared by a solicitor and served by him, and in which process of execution is prepared by the solicitor, who gets it sealed in the Central Office, and then hands it to the sheriff for enforcement. Certain County Courts, 135 in number, have a jurisdiction in Bankruptcy. Adjoining County Court districts not having the jurisdiction are grouped with and form part of the Bankruptcy district of one or other of those which possess it. Since 1890 the County Courts having Bankruptcy jurisdiction have also jurisdiction under the Companies Acts where the capital of the company does not exceed 10,000*l.* An equity jurisdiction, as regards matters usually belonging to the then Court of Chancery, was conferred in 1865 on all County Courts, the general limit being 500*l.* There were 712 cases in 1913. Jurisdiction in workmen's compensation cases was conferred on all County Courts in 1897, and continued and developed by the Act of 1906. This has largely added to the work of the County Courts. Numerous other Acts dealing with a variety of subjects have added to the jurisdiction of County Courts, but proceedings under them are seldom resorted to. There were only 258 cases in 1913. District Registries of the High Court have been established under the authority of the Judicature Acts of 1873 and 1875 for the issue of writs, &c., at 84 of the County Courts. Interlocutory proceedings in an action may be taken at the

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MR. BENJAMIN JAMES BRIDGEMAN.

[Continued.]

District Registries as in the Central Office and Masters Chambers at the High Court. There are now 493 County Courts, to some of which are attached branch County Courts to the number of 68. They are grouped in 53 circuits, for which there are 55 judges, there being one extra judge at Liverpool and another in London. Judges of County Courts, at one time paid by fees, are paid by salaries charged on the Consolidated Fund, and are entitled to a pension for incapacity on the recommendation of the Lord Chancellor.

51,526. May I sum it up by saying that the County Courts have a jurisdiction which is limited in area and in amount, and, to some extent, by the nature of the proceedings?—Yes, that is so.

51,527. In practice is the work of the County Courts to a very large extent the recovery of small debts?—It is mainly the recovery of small debts; that is their principal work.

51,528. Dealing next with the finance of the courts, will you tell us briefly what the arrangements are with regard to that?—The courts were formerly grouped under 23 treasurers, and by degrees the work of the treasurers and their responsibility have been absorbed by the County Courts Department of the Treasury. Every registrar has a local banking account, into which he must pay all moneys not immediately required for cash payments.

51,529. The moneys that he receives consists, I suppose, partly of fees and partly of suitors' money paid into court?—Yes, of a large amount of suitors' money and a fair amount of fees.

51,530. Those two categories cover the whole of the moneys passing through his hands?—They cover the whole of the moneys, with the exception of moneys under the Workmen's Compensation Act and a few miscellaneous items.

51,531. Are those for the most part lodged in the savings bank?—For the most part they are lodged in the savings bank; there is nearly always an order by the judge to invest in the Post Office Savings Bank.

51,532. So that the actual control of those moneys does not come into the hands of the registrar except so far as his order is necessary for their payment?—That is so after the registrar has made the deposit. The order must be made by the judge, and that order is sent up to the Treasury, and the Treasury authorise the withdrawal from the Post Office Savings Bank.

51,533. Your department exercises control over the registrar's banking account?—Yes.

51,534. If a registrar has more money in his account than is required for the payments he has to make, what is done with it?—We take over the money and form a fund called the "County Courts Fund," with which we finance other courts where there is a deficiency of funds. Ultimately the money may be wanted by the Court, and, if so, it is handed back to the registrar from time to time.

51,535. How are the expenses of the courts and the salaries paid?—They are paid out of the fees; but if the fees are not sufficient the suitors' money is used. In fact all the moneys in the County Court in cash are pooled and used indiscriminately for anything that may be wanted.

51,536. They are pooled, and if, finally, there is a deficit to be met, it is dealt with on the whole mass and not on the individual court?—That is so. The accounts are rendered quarterly, and after audit there is a settlement between the registrar and the Treasury, and between one registrar and another through the Treasury.

51,537. How are the accounts dealt with for Parliamentary purposes?—As a matter of public accounting, estimates of expenditure are prepared every year and presented to Parliament, credit being given for fees and other receipts as appropriations in aid, the actual receipts and expenditure being embodied in an appropriation account after the close of the year; but in law and in practice the salaries are payable and are actually paid out of the produce of the fees on which they are charged by statute, and the effect of a recent opinion of the law officers is to confirm the view that, notwithstanding the formalities of public accounting, the salaries are not paid out of moneys provided by Parliament.

51,538. Has some importance been attached to the question of whether the salaries are paid out of moneys

voted by Parliament from the point of view of the position of clerks in the courts?—Yes. During the last 20 years from time to time there have been memorials to the Treasury, and one of the allegations has always been that the clerks in a County Court were paid out of moneys provided by Parliament, and therefore have some claim to pension.

51,539. You tell us that the law officers have stated it as their opinion that the salaries are not paid out of moneys provided by Parliament?—Yes; the question went to the law officers on a point arising on the Police Act of 1890. I will not say most, but many of the bailiffs are pensioners, pensioned policemen or pensioned soldiers or sailors; and the Receiver of Police, under some provision of the Police Act, used, in the case of policemen, to abate their pensions when they received over a certain amount in salary from the County Court. That went on for some time until one day a bailiff disputed the right to abate his pension. There is a provision in the Police Act that if a man obtains an appointment and is paid out of moneys provided by Parliament his pension should be abated; and this bailiff objected to having his pension abated, with the result that the Receiver of Police had to refer the matter to the Home Office, and the Home Office asked the Treasury Solicitor to submit a case to the law officers. The law officers held that the man was not paid out of moneys provided by Parliament; and, *a fortiori*, if he is not paid out of moneys provided by Parliament the clerks are not, for there is no provision at all for their payment. The payment of salaries is charged on the fees.

51,540. You refer to Section 44 of the Act of 1888?—Yes.

51,541. In that section it is stated that, "The salaries and remuneration of the registrars and high bailiffs shall be paid out of the produce of the fees payable under the provisions of this Act"?—Yes.

51,542. It is also stated that if there is any deficiency it shall be paid out of moneys provided by Parliament?—Yes, it says so; but it has never been necessary to provide for a deficiency; the fees have always been sufficient to pay all the salaries.

51,543–552. What is the position with regard to meeting the other expenses as well as the salaries?—As regards meeting the expenses of salaries, the fees have always covered them, but there are other allied services, such as the Stationery Office Vote and the Vote for the Office of Works, and when all those are taken into account the average net cost of the County Courts in the last seven years has been 143,045*l.* per annum, or, excluding judges' salaries and pensions, 53,452*l.*

51,553. And the gross salary includes the amount paid to the clerks?—Yes.

51,554. You say that the fees are more than sufficient to cover the salaries of the registrars and clerks?—Yes.

51,555. But looking at the Estimates for 1915–16 is that the case?—The year 1915–16 is an exceptional year. I think I ought to have left that year out entirely, because that is a year affected by the war, the provision there is really to make good a deficiency in the fees. That is a very exceptional year; we have never had anything like it before.

51,556. I see that the figures for 1915–16 are very much lower than the figures for 1914–15. Is that owing to a falling off of business?—Yes, quite.

51,557. And, owing to the fact that the payments do not fall off so rapidly as the business, the fees for 1915–16 are insufficient to meet the salaries?—Yes, it is mainly because of the payments to clerks and bailiffs. We never, as a general rule, reduce an allowance either for a clerk or a bailiff unless there is a vacancy on the staff; so that those fixed allowances remain.

51,558. That is to say, the allowances move upwards rapidly to correspond with an increase of business, but they do not move downwards when there is a decrease of business?—We are in the unfortunate position that we cannot reduce them without causing great hardship. A reduction would only be effected if it could be done without causing hardship.

51,559. Then it follows that in the present year a part of the salaries will actually be voted by Parlia-

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[Continued.]

ment since a deficiency of fees is voted by Parliament?—That is so.

51,560. But in ordinary years, when the fees are sufficient, the whole of the salaries and remuneration are, as prescribed by the Act, paid out of fees and not voted by Parliament?—Invariably.

51,561. And the law officers have held that the fact that the Estimate is presented in the form of complete payments, and then appropriations in aid have to be deducted from them, does not alter the principle of the Act that payment is out of the fees?—Yes; that was the case with regard to the particular bailiff which was submitted to them.

51,562. Will you tell us what the staff of the County Courts is? In the first place, you have told us that there are 493 courts, to which are attached 68 branch courts. In order to make it clear, although the Commission is not dealing with the County Court judges, will you state what number of County Court judges there are?—There are 55 County Court judges and 53 circuits. There is one additional judge for Liverpool and one for London—53 circuits and 55 judges.

51,563-4. Each circuit contains a varying number of individual courts?—Yes; in some instances as many as 15 or 16 courts, and in a few only one. Westminster has a judge entirely to itself, and so has Manchester; Birmingham has almost—except for a little court called Solihull; the judge goes there, otherwise he is entirely at Birmingham.

51,565. Each court has a registrar?—Yes, each court has a registrar.

51,566. By whom is he appointed?—He is appointed by the judge, with the approval of the Lord Chancellor.

51,567. Is there a statutory qualification?—He must be a solicitor of at least five years' standing, and he must reside in the County Court district.

51,568. And has he to give security?—Yes; he gives security to the Crown, often of a very large amount, which covers his own acts or omissions as well as those of all persons whom he employs in his office, and for whom he is responsible.

51,569. What are the registrar's duties?—A registrar has certain judicial powers enabling him, with the leave of the judge, or in the judge's absence, to enter up judgment in undefended cases and make orders as to methods of payment; also, with the judge's leave, he may hear disputed cases where the claim does not exceed 2*l.*; and when the claim is more than 2*l.* he sometimes hears the cases by consent of the parties.

51,570. I suppose cases under 2*l.* are a very large proportion of the whole?—A very large proportion; probably two-thirds.

51,571. I see from the judicial statistics that the average amount of a County Court claim is about 3*l.*?—It is a little over 3*l.*, I think; slightly over.

51,572. As a matter of fact, does the registrar hear all cases which are within his competence?—I think he does now. We have had judges who objected to the registrar hearing anything; but, I fancy, in every case now the registrar hears his own cases—cases that the legislature has given him power to hear.

51,573. In the cases which are within his competence is there any appeal from him to the County Court judge?—Yes, the parties can appeal to the judge.

51,574. What are the registrar's duties apart from that judicial work?—He prepares and issues processes, draws up judgments and orders, keeps the records of the County Court as well as the cash books and ledgers, and is charged with the receipt and payment of all moneys passing through the court, of which he has to render proper accounts. In this work the registrar employs persons to assist him—as many or as few as he pleases.

51,575. How far is he required to perform his duties himself, and how far can he perform them by persons whom he employs?—It is very difficult for me to say anything about that, because we never differentiate the registrar from his clerks. Some registrars in small courts have been known to perform all the duties, to keep all the books, prepare all the accounts and draw every order; and even registrars in some of the

large courts take very great interest in the work and do a great deal of it themselves. On the other hand, there are registrars with large practices who leave as much as possible to their clerks; but they pay them for it; at least, we believe they do.

51,576. Can they delegate their judicial work?—No, they have no power to delegate their judicial work, unless a deputy registrar has been appointed.

51,577. That they must perform?—That they must perform. There is a good deal that they can delegate, of course, in the way of drawing up orders, drawing awards, and things of that sort.

51,578. Are they required in any cases to give their whole time to their duties?—There are 12 courts* as to which the Lord Chancellor has made an order that the registrar shall not practise, and whenever that is done the registrar becomes an officer of the Supreme Court under the Judicature Acts and is entitled to a pension, and the Treasury are bound to assign him a pensionable salary.

51,579. By "practise" you mean practise as a solicitor?—Yes, practise as a solicitor.

51,580. Are there any other kinds of activity that are excluded. Would he be allowed to engage in business, for instance?—I do not know whether the Lord Chancellor would allow him to do that. I think the Treasury would raise some question when the time came for his pension.

51,581. You are not aware that any such case has arisen?—I cannot say at the moment.

51,582. Among those registrars who are prohibited from practising?—I have no definite information. I have had a suspicion, but I do not think I ought to mention it to the Commission, because it is only suspicion.

51,583. Do other registrars, apart from those who are not allowed to practise, carry on at the same time their private practice as solicitors?—Yes.

51,584. Have they in all cases a private practice as solicitors?—No, I do not think they have. I think in some cases the judges have made it a condition on appointment that they should not practise. That is not the case of the Lord Chancellor making an order; it is merely a sort of agreement, an honourable understanding between the judge and the registrar, a condition on appointment.

51,585. How are registrars appointed?—Registrars are appointed by the judge with the approval of the Lord Chancellor. Their testimonials are sent up to the Lord Chancellor and he has to approve the appointment.

51,586-7. How are their clerks appointed?—The registrars' clerks are appointed by the registrars.

51,588. Besides registrars what other officers are there?—There are 55 high bailiffs—it is an expiring class of officer—charged with the service and execution of process, and they, like the registrars, give security to the Crown.

51,589. You say that is an expiring office?—That is an expiring office.

51,590. How is that extinction effected?—The extinction is effected upon a vacancy. If a high bailiff dies or retires the registrar takes over the duties under Section 37 of the County Courts Act, unless the Lord Chancellor and the Treasury agree together that there should be a separate officer. That has been done in the case of very large courts.

51,591. The effect of that will be that, except in those particular cases of very large courts, the high bailiffs will cease to exist and their functions will be merged in the office of registrar?—That will be so.

51,592. Does the registrar receive additional remuneration when that happens?—Yes; he gets a small addition to his salary. I do not think it is intended to be an equivalent for the work; but there was an officer being paid a liberal salary, and the Legislature decided that he might perform those duties for a small consideration; he gets one-fifth of his net salary as registrar for performing those duties.

51,593. The high bailiff's duties, you tell us, are the service of summonses and execution of process?—Yes.

* Vide Appendix XCVIII.

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[Continued.]

51,594. How does he perform those duties?—In very small courts he does a great deal of the work himself, and in the larger courts he appoints as many bailiffs as he requires.

51,595. Does he appoint those bailiffs himself?—Yes.

51,596. Without anyone else's approval?—Yes.

51,597. And where the office is merged in that of registrar, then the registrar appoints the bailiffs?—He does.

51,598. Is the registrar's staff employed exclusively upon County Court duties?—In the courts with above 6,000 plaintiffs the registrar's clerks would be employed exclusively upon either County Court duties or duties connected with some jurisdiction annexed to the County Court, such as the Bankruptcy jurisdiction or the district registry—something of that kind; they would be employed on public business connected with the County Court. Under 6,000 plaintiffs, there is nothing at all to compel the registrar to employ his clerks entirely upon County Court business; he may employ them on anything he pleases. If he is a clerk to a magistrate he may use the County Court clerks for doing that work, or he may employ them in his private practice. In fact, in 80 per cent. of the County Courts, the offices are housed in the same building as the registrar's private practice; the registrar gets a small allowance from the Office of Works for providing and furnishing an office, including lighting, heating, and cleaning; it begins, I think, at something like 7*l.*, and goes up according to the number of plaintiffs.

51,599. Is there, as a rule, a separate room for County Court business?—Yes. Not in the very small courts, but, as a rule, I think there is a separate room. In those courts that I have visited I have found a separate room with one or two clerks engaged on County Court work sometimes and sometimes on other work.

51,600. Is it the general practice in those smaller courts to employ the staff partly on the registrar's private work and partly on official work?—Yes, certainly, in courts below 2,000 plaintiffs. When you get above 2,000 plaintiffs you find men who are more or less whole-timers.

51,601. But there is nothing to prevent their being employed on private business if the registrar desires so to employ them?—There is nothing at all.

51,602. In the case of the high bailiff's staff, or where the registrar performs the duties of high bailiff in the case of the staff employed by him, are they employed exclusively upon their official duties?—They are in the larger courts, but in the very small courts they are only part-time employees; sometimes it is a gardener or a tradesman or a small auctioneer who is doing the work.

51,603. In those cases there is not nearly enough work to employ men for the whole of their time?—No. I believe in some cases the only allowance is 35*l.* or 40*l.* a year for service and execution of process; there is not enough work to justify whole-timers.

51,604. Will you tell us now the method by which the remuneration of those various officers is fixed?—I have mentioned that there are 12 of the courts in which, on appointment, the registrars were ordered by the Lord Chancellor not to practise, and were assigned a salary equivalent to the average net remuneration received from all sources in the previous three years less the estimated value of pension rights. Provision for this course is contained in Section 45 of the County Courts Act, 1888. During the first 10 years (*i.e.* 1846 to 1856) registrars were called clerks, and were remunerated wholly by fees. They numbered 229, many of them having more than one court. They kept one court themselves and appointed at the other places local attorneys called assistant clerks, with whom they shared their fees. This arrangement ceased in 1856, when it was enacted that the clerk should be called registrar and should have only one court, with compensation for the loss of the others. The necessity for assistant clerks ceased, and they were not again referred to by the Legislature. In the year 1856 registrars ceased to be paid by fees, being thereafter paid by salaries out of the produce of the fees. The minimum of the scale was at first 120*l.*, covering an entry of 200

plaints, with an increase of 5*l.* for every 25 plaintiffs above 200 and not exceeding 1,000, and a further increase of 4*l.* for every 25 plaintiffs above 1,000 and not exceeding 6,000. That scale was subsequently modified to a minimum of 100*l.*, with an addition of 4*l.* for every 25 plaintiffs above 200 and not exceeding 6,000.

51,605. Is that the present scale?—That is the present scale. Above 6,000 the salary was to be fixed by the Treasury with the consent of the Lord Chancellor, but so that the net salary should not exceed 700*l.*

51,606. Are those the scales laid down in the Act of 1888?—Yes.

51,607. A clear distinction is drawn between the courts with more than 6,000 plaintiffs* and those with a smaller number of plaintiffs?—Yes.

51,608. In the case of courts below 6,000 the salary is fixed entirely by the sliding scale?—Entirely.

51,609. But in the larger courts it was found that that scale would produce an excessive remuneration, and it was therefore laid down that the total remuneration should be fixed by the Treasury within the amount represented by the scale, and in such a manner as to leave, after providing reasonable remuneration for the clerical staff, a salary not exceeding 700*l.* for the registrar?—That is practically so; but I have explained further on, in some other part of my memorandum about the 6,000, and we shall get to that later.

51,610. A broad distinction must be drawn between the courts with 6,000 plaintiffs and upwards and those with below 6,000?—Yes.

51,611. Would it be correct to say that that distinction corresponds to the line between a whole-time staff and a part-time staff—speaking of the clerical staff now and not of the registrars themselves?—A compulsorily whole-time staff. I think the word compulsorily is necessary there, because I do not think one could say that it applied generally to all the clerks in courts below 6,000 plaintiffs. They are not obliged to be whole-timers in courts below 6,000. They are obliged to be whole-timers in courts above 6,000.

51,612. In some cases they would be whole-timers in courts below 6,000, although they are not compelled to be so?—Yes, although they are not obliged to be so.

51,613. Then as regards the high bailiffs' salary, what is the position?—They are paid a salary varying with the business of the courts. If the entry of plaintiffs does not exceed 6,000, the salary is one-sixth part of the registrar's gross salary. When the plaintiffs exceed 6,000, the high bailiff receives a salary of 250*l.*, increasing by 12*s.* 6*d.* for every 25 plaintiffs. A maximum of 1,000*l.* is fixed for future appointees.

51,614. Do the present salaries in many cases exceed 1,000*l.*?—I will not say in many cases, but there are cases in which they do exceed 1,000*l.* at present.

51,615. Is that the net salary or the gross salary?—The net salary.

51,616. In how many cases is it likely that high bailiffs will be permanently retained?—I should think in most courts above 10,000 plaintiffs.

51,617. How many courts is that?—There are 24 courts above 10,000 at present, and there are, I think, 51 high bailiffs; but some of these high bailiffs take a number of courts, they are high bailiffs of a group.

51,618–20. Then will the high bailiffs who will be permanently retained in any case be high bailiffs for more than one of the 10,000 plaintiffs courts?—I do not think they will in future. I do not think they can be. When the Legislature determined that a registrar should not have more than one court, that enactment applied to everybody, whether he was a registrar appointed before the Act or after it; but in the case of high bailiffs there is a similar provision applying only to future appointees, so that we have a certain number of high bailiffs who have more than one court at present. Their successors will not; their successors will probably be registrars; but the way in which they get so many plaintiffs is by the aggregate of the number of courts.

51,621. (*Chairman.*) Can you say in how many cases, on a vacancy in the post of high bailiff, it has been decided that a high bailiff should still be appointed instead of merging the office in that of registrar?—I

* *Vide* Appendix XCIX.

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[Continued.]

think there have been three or four during the last 17 years; they are not numerous.

51,622. In such cases is there an additional remuneration in respect of special work?—For the high bailiff?

51,623. I am speaking now of the registrars?—Yes. In 1865 and 1868, when Equity and Admiralty jurisdiction were conferred, the former on all County Courts and the latter on certain of them, additional schedules of fees to be paid by the parties were prepared, and such fees were assigned to the registrars for their own use. They are called Schedule B Fees, Schedule A Fees being those out of which salaries are paid.

51,624. Then does the registrar retain the whole of those fees, or does he pay some portion of them to his clerks?—He does pay some portion of them to his clerks—an indefinite sort of amount.

51,625. No control is exercised over that?—The Treasury have no control there. It has been the practice ever since, when any special jurisdiction or duty is conferred by statute or rule on the County Court registrars, instead of revising the scale of salary, to add fees to the schedules and assign them to the registrars as remuneration.

51,626. Under that arrangement, has there been some substantial addition to their remuneration in respect of workmen's compensation?—Yes; for duties under the Workmen's Compensation Act, prior to date of award (after which fees are chargeable), the registrar is paid 10s. on each application for arbitration and 3s. 6d. for perusing and registering or refusing to register an agreement.

51,627. If the registrar is also a district registrar of the High Court, he receives a separate remuneration for that work?—He has a special remuneration, which is allowed in his accounts as County Court registrar, and is ultimately recovered by the Treasury from the Supreme Court Vote.

51,628. Is there a limit to this total amount of his remuneration from all sources?—The total amount of his net remuneration from all sources is 1,400l. a year.

51,629. You yourself are the head of the County Courts Department of the Treasury?—Yes.

51,630. Can you tell us briefly what the work of that department is in relation to County Courts?—Its duties are primarily financial. It considers the financial effect of draft rules; it issues, under the general supervision of the Treasury, instructions to officers of County Courts as to accounts, book-keeping, fees, &c., and authorities for making payments, and acts generally as a department entrusted with the "accountant" duties of the County Courts.

51,631. What means of inspection have you?—We have a local audit by examiners. The local audit of the courts has gradually fallen to be performed by the department, the treasurer's duties, as vacancies occurred, having been absorbed by it. The department settles all accounts with the registrars and high bailiffs, and is the clearing house for the numerous transactions between one court and another.

51,632. Has it also the duty of settling the amount allowed for the registrar's salary and the payment of clerks in the case of large courts?—It looks into the quarterly accounts of everything that is paid. There are a few remarks I have to make with regard to administration, if I may be allowed.

51,633. If you please?—The administration of County Courts properly appertains to the Lord Chancellor's department; financial control, to the Treasury. When necessary, questions of discipline have to be referred to the Lord Chancellor. Finance and administration are, however, intimately connected, and the Lord Chancellor has no itinerant staff through whom he could promptly and effectively obtain independent information needed in dealing with 500 County Court offices, in which the majority of the judges scarcely ever set foot. They merely attend the sittings of the Court. The result of that is that certain duties not strictly financial fall on the County Courts Department.

51,634. Will you explain the nature of those duties?—The Lord Chancellor issues rules; the County Courts Department transmits them to the officers, and from

time to time reports if the rules are not properly observed and performed in their offices.

51,635. Then in such a matter as issuing rules, the Lord Chancellor does not communicate direct with the officers of the County Courts?—He does not transmit them to the officers.

51,636. He always does it through your department?—Through my department. The department also observes how the office work is done, and acts if there is any inefficiency.

51,637. What is meant by "acts"?—We should call the attention of the registrar to the state of inefficiency and require it to be remedied.

51,638. And if it was not remedied, would you report it to the Lord Chancellor?—We should probably make a further effort by writing an official letter from the Treasury, and if that failed we should report the matter to the Lord Chancellor for disciplinary action.

51,639. But, ordinarily speaking, if it is not an extremely grave case, the department acts without reporting or referring to the Lord Chancellor?—Yes, if it does not affect the personal character of the registrar. The Lord Chancellor prescribes forms; the department decides how many the officers require, on applications from the registrars, and then gives the order to the Stationery Office. In the same manner the department checks and controls the supply of stationery, books, and stores, costing about 20,000l. a year.

51,640. In fact, you act as an inspecting department and, to some extent, as an executive department, as regards the general administrative control of the County Court offices?—Yes.

51,641. In addition to the proper financial duties, for which the department was originally created?—That has always been so. Then the Lord Chancellor appoints the judges; the department considers their applications for ushers, books, &c., and negotiates with them for their travelling allowances.

51,642. By that, do you mean that you consider the amount of allowances to be made for payment of ushers and books, &c.?—Yes; it requires a good deal of negotiation sometimes. We order the books from the Stationery Office.

51,643. So far as the persons are concerned, that is a matter entirely for the County Court judge himself?—Yes, quite; we have nothing to do with that.

51,644. What the County Court judge discusses with you is the amount of money to be allowed for such things?—As to the necessity of employing an usher.

51,645. That would come under the head of amount, would it not; the amount might be nil?—Yes. The department also sees that the judges' libraries are transferred from a retiring or deceased judge to his successor, and keeps a record of the judge's books, which are very often kept at his own house. The judges appoint the registrars and high bailiffs; the department considers the amount of their business, and from time to time negotiates with these officers as to the amount of their respective allowances, whether for clerk hire or for service and execution of process, and takes steps for obtaining security from these officers.

51,646. The fixing of allowance for clerk hire, I suppose, is a matter that gives rise to considerable difference of opinion sometimes?—Yes, it does, sometimes; but I think, on the whole, the registrars are satisfied. If a clerk or a bailiff is injured in the performance of his duties, the department investigates the circumstances before allowing the registrar to charge compensation in his accounts. If a clerk or bailiff is ill, the department considers, on the registrar's or high bailiff's application, whether the circumstances justify an allowance of the cost of a substitute. The department considers and reports on proposals of the Office of Works to build or lease County Courts and offices, also on questions as to the use or discontinuance of local public buildings for County Courts. Complaints about the service and execution of process, and questions as to fees properly chargeable, arise on communications from persons using the courts. The department deals with all of them.

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51,647. To whom would complaints of that kind be addressed?—They are generally addressed to the superintendent. If any question arises at a court about a fee, or about a complaint, the registrar usually refers it to the superintendent, and so we get, of course, sheaves of letters about things of that sort which we have to deal with.

51,648. Are such complaints ever addressed to the Lord Chancellor?—I am afraid I cannot answer for the Lord Chancellor.

51,649. Have you ever had such complaints referred to you by the Lord Chancellor?—Never.

51,650. (*Sir John Kempe.*) I suppose the Treasury is behind all these matters you are now citing; they are not settled by the superintendent himself, but they go to the Treasury for final decision, do they not?—I am afraid not.

51,651. In no case?—I will not say that. The amount of an allowance for clerk hire, or for a high bailiff's men, when settled by me, would go to the Treasury for approval; but these numerous questions, for instance, about a complaint of non-service of a summons or delay in execution of process, would not go beyond me.

51,652. But in the event of providing a substitute which would involve a question of salary, that would go to the Treasury?—I should put the paper forward, and it would be initialed by the principal clerk in the Legal Division.

51,653. Whenever it involves extra expenditure it goes to the Treasury?—Always.

51,654. (*Chairman.*) Such a question as the provision of a new court would go to the Treasury?—Certainly.

51,655. Then, in addition, have you the charge of the Registry of County Court Judgments?—Yes; that was established under a provision contained in the County Courts Extension Act of 1852, requiring a register to be kept of County Court Judgments for sums of 10*l.* and upwards. Its institution was due to mercantile rather than legal considerations, for, unlike that kept at the Land Registry of High Court Judgments, the registration does not affect transactions with the property of the debtor. Its functions are to provide authentic evidence in an easy form suitable for searchings, &c., to guide traders in their credit transactions. Its utility is undoubted, and chambers of commerce, as well as the various trading associations in the country, to whose efforts the institution of the registry was probably due, would have to be heard on any question as to the necessity or otherwise of continuing to register judgments. The income of the registry is nearly 700*l.* a year, and its cost is under 200*l.* a year.

51,656. It is, therefore, much more than self-supporting?—Much more than self-supporting; it is quite a profitable little department.

51,657. Has any suggestion been made for its discontinuance?—Its abolition was recommended, I believe, by the Judicature Commission years ago, and as recently as five years ago I had a very long letter sent to the Treasury by the then Lord Chancellor from one of the registrars suggesting its abolition, which I had to deal with at considerable length.

51,658. But, in your opinion, it is useful and should be maintained?—I think it is serving a useful purpose.

51,659. Have you any information as to the actual salaries of clerks employed by registrars?—We have no records in the County Courts Department showing the total remuneration of the registrar and his clerks in any of the courts, or the number of clerks. I have obtained from the registrars particulars of the numbers of clerks employed, and I hand in an abstract of the registrars' returns (*handing in the same*). For purposes of audit, payment to clerks with the names of the clerks employed, are shown in the quarterly accounts rendered by registrars of courts having an allowance for clerk hire, the vouchers being annexed; these are, of course, available should any questions arise. There is no similar information for the courts entering less than 6,000 plaintiffs; if a registrar of such a court claims abatement of income tax in respect of his clerks, I am furnished

with particulars of the clerks in respect of which the claim is made; but this is furnished to me in any particular case only as a Commissioner of Income Tax.

51,660. That is merely incidental; it is not part of a system of returns?—No.

51,661. It is entirely a matter for himself to fix?—Yes, many registrars do not claim abatements at all.

51,662. So that although you have not official returns on the subject, you do see in a large number of cases what the amount of salaries is?—Yes, we can see; they are included in the accounts. The examiners see them, and they are also assessors of income tax, so that they see them. I cannot say that I personally see them unless some question arises.

51,663. From what you have seen, can you form any opinion as to how the salaries paid to clerks employed on County Court work would compare with those of clerks employed by the registrar on his own private business?—I do not pretend to know very much about it, because I do not often see these clerks' receipts and I do not know what they are paid; but on one occasion a registrar received in gross income more than 1,400*l.*, and it became necessary to find out whether he received in net income more than 1,400*l.*, and so we had to ask for the production of the receipts. I saw those. Then in some 12 cases during the last 17 years the courts have emerged from the scale below 6,000 plaintiffs and have got into the other category; and there we had to call for the receipts of the clerks, and I saw those. I have also discussed the matter frequently with registrars, and I do not think they are underpaid. I think they are paid something like what a registrar pays his private staff. In 80 per cent. of the courts the staff are housed in the same building as the registrar's private staff; if he does not use the same clerks they are certainly in the same building, and I do not think it is an unnatural thing for a solicitor who is appointed registrar, when he selects his clerks, to select men of something like the same calibre as the other men in his office, and to pay them something like the same salaries, probably a little more. I think that is just what he does.

51,664. (*Mr. Coward.*) They might do very different work, too; for instance, he might have conveyancers in his office to whom he might pay considerably more than he would pay the man who happened to do the County Court work?—Yes, certainly.

51,665. (*Chairman.*) Can you compare the work that these clerks do with the work that clerks in an ordinary solicitor's office do?—You can compare it to some extent. In the registrars' offices they prepare the process; in solicitors' offices they prepare the writs and things of that sort, and in the London offices there are men who are called common law clerks who have a great deal of that sort of work to do. I think there is some comparison. I am not dogmatizing at all about it; I only think it probable that what the registrar does is that he selects men of the same calibre as the other clerks in his office, and he gives them something like the same salaries.

51,666. Of what does the work mainly consist in the offices of the County Courts?—There is a great variety of work. Although in the large courts men get into a groove, and are doing the same thing day after day, it is a sort of special routine. A man may be entering nothing but small amounts in a cash book or in a ledger—they are very small amounts as a rule—it may be something like the work, perhaps, of a man in a cash desk who is entering figures all day long; there is nothing much more in it than that. Some of the clerks fill up a good many forms, forms of summonses and various kinds of process. I do not think you could call it intellectual work.

51,667. Does the accounting work constitute a large part of the whole?—A very large part. I should say that of a registrar's work and responsibility fully 60 per cent is financial.

51,668. Is that accounting work of a very simple character?—Quite.

51,669. The entry of small sums paid in by debtors?—Yes, paid by debtors under judgments.

51,670. Which have to be entered in the cash book and brought to proper account in the ledger?—Yes.

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51,671. (*Mr. Coward.*) Or paid in court before judgment?—Yes, they may be; sums are frequently paid into court before judgment.

51,672. (*Chairman.*) So that it would be a very simple kind of accounting work?—The bulk of the work consists of very small instalments ordered by the judge to be paid, instalments, say, of 4s. a month; that, I believe, is a very common order in a County Court.

51,673. Work of that kind would not be more complicated than the work of a post office clerk taking savings bank deposits?—I should think not.

51,674. Then as regards the work which is not accounting, would a large part of it consist of filling up forms?—Yes, a good deal of it.

51,675. Is a large part of that work done by means of printed forms to be filled up?—Yes, there are some 500 printed forms.

51,676. (*Mr. Coward.*) They would have the same work to do with regard to arresting ships, for instance—executions to issue, and all that kind of thing; it would be just the same kind of work as is done in the Superior Court?—They would do that in a solicitor's office rather than in the Superior Court.

51,677. Not the warrants for arresting a ship?—There are very few warrants for arresting ships in the County Courts; it is only where they have Admiralty jurisdiction, and I think there are only 43 courts that have Admiralty jurisdiction out of 493.

51,678. (*Chairman.*) The suggestion is made in one of the representations from the staff of clerks, that the work covers all the different kinds of work done in the Central Office of the Supreme Court. Can you form any opinion upon that suggestion?—I think that would come better from a registrar having a district registry; I think he could tell you more about it. I know something about it, but I think it would come better from him.

51,679. Are you acquainted with the report of a committee appointed in 1900 by the Lord Chancellor and the Treasury, on certain questions connected with County Courts?—Was that the one over which Sir David Brynmor Jones presided?

51,680. Yes?—That was as to County Court clerks. I assisted the Committee somewhat in the inquiry.

51,681. I find in that report an opinion expressed about the work of the clerks. I will read it to you, and ask whether you concur in it: "We cannot wholly agree with Mr. Grimsdale's characterisation of the 'work of the clerks, &c., as being highly skilled labour' in the sense of being work that requires any very great special training, expert knowledge, or ability above the average. Speaking broadly, the work is of a very specialised routine character. Unlike the work of those clerks in solicitors' offices who are not merely keeping books, but doing the necessarily varied work of such an establishment, it resembles rather the work of a bank clerk. No knowledge of law is requisite for most of the work that is performed by the ordinary County Court clerk, though, of course, it is greatly to the advantage of the suitor in person that there should be at any rate one man in the office to whom he can appeal for aid in drawing his particulars of demand, and occasionally in other matters. What, over and above the qualities of a good clerk, the ordinary County Court clerk requires is good temper, the capacity of doing dull and monotonous work with patience, and the faculty of being courteous in dealing with illiterate and sometimes rough and irritable persons." Do you think that is a fair statement?—I think it is fairly accurate. Instead of saying a bank clerk, I should say a clerk in a Post Office doing Savings Bank business at the counter. I think that a bank clerk is a rather more important personage altogether, and has more important duties than those of receiving and paying cash in the County Court.

51,682. I ought to add that the report makes an exception as regards cases where the registrar does not perform many duties himself, and where, consequently, the senior clerk in the office has for a great many purposes to take the place of the registrar; in those cases it is stated in the report that the work is of a decidedly

better character. Would you concur in that view?—Yes, I think so: I think that is right.

51,683. On page 10 of that Report there is also a statement of the staff employed at the Bow County Court. In that court nine clerks are employed with salaries varying between 400*l.*, which is the highest, and 80*l.*, which is the lowest. Should you judge from your experience that those salaries might be taken as fairly representative of a court of that class?—In London I should say yes, though the chief clerk at Bow gets now 500*l.*, and I am not sure what they get in the other London courts; but I think that is about right as a fair sample. I am not sure that the chief clerks generally get as much as 400*l.*, certainly not from the clerk hire allowance; they may get it by additions made to them by the registrar from his fees. I have got the particulars of the Lambeth County Court staff here, which perhaps might be of use. (*Handing in the same*).

51,684. It is not stated in the report whether those salaries include any additional remuneration from fees or not. Do you think that they include such remuneration, or are they the salaries without extra remuneration?—You mean the fees on page 10?

51,685. Yes?—No, that is entirely clerk hire allowance. I remember the figures very well.

51,686. So that there will be some additional remuneration from fees for special work?—Yes.

51,687. Can you tell us how many complaints there are in the Lambeth Court?—In round figures 10,000.

51,688. There appear to be seven clerks with salaries varying between a maximum of 300*l.* and a minimum of 80*l.*?—Yes.

51,689. The total allowance for clerk hire being 1,200*l.*?—Yes.

51,690. They also receive additional remuneration under Schedule B varying apparently for individuals between a maximum of 70*l.* and a minimum of something over 20*l.*?—Yes.

51,691. Is that a court in which the registrar does a great part of the work himself?—He does very little, I think, except his judicial work; he is a practising solicitor in London.

51,692. So that the senior clerk who receives a salary of 300*l.* a year would be doing the greater part of the administrative duties of the registrar?—I think he would.

51,693. In the cases where the County Court registrar is also a district registrar of the Supreme Court, what is the arrangement as regards staff?—There is a common staff for the two as a rule. There are not more than 16 courts where they are obliged to have a special clerk for district registry work.

51,694. In those cases where there is a common staff how is the remuneration arranged?—The registrar is paid a special allowance in respect of the district registry work, and he is supposed to remunerate the clerks out of that.

51,695. That is to say, he receives two allowances, one for the district registry work and one for the County Court registry work?—The special allowance is in the nature of remuneration to him personally as district registrar, and out of that he employs and pays his own clerks.

51,696. Then as district registrar does he receive no allowance ear-marked for clerks?—Not at all, unless he is a pensionable registrar. Where he is a pensionable registrar he gets no other sort of remuneration, and then the fees are accounted for and paid over, and therefore he gets an allowance for clerks from the Supreme Court. That is charged to the Supreme Court Vote and is paid direct by the Paymaster-General for Supreme Court business. I have nothing to do with that except fixing the allowance.

51,697. When he is not a pensionable registrar he receives as district registrar an inclusive salary out of which he employs such part as he thinks fit on the payment of clerks?—It is not called a salary; he gets so much per writ. He is paid by the piece.

51,698. Is the district registrar not paid a salary?—He is paid in the same way; he is paid by results, which is the same thing.

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51,699. In all cases?—In all cases, except in the case of pensionable registrars, who have an inclusive salary.

51,700. When you speak of pensionable registrars you mean pensionable County Court registrars?—Yes.

51,701. In such cases does he receive an addition to his salary as district registrar of the High Court?—An ordinary County Court registrar who is a district registrar of the High Court is paid so much for each writ issued in the district registry, and that is his remuneration. Out of that he pays his clerks for their assistance. If he is a pensionable registrar he gets an inclusive salary for all his duties, whether County Court, or District Registry, or Bankruptcy, or whatever it may be; the whole thing is commuted for a fixed salary; and that is the net salary of a pensionable registrar. In addition to that, he gets an allowance for clerk hire in the County Court from the County Court Vote, and he gets an allowance for clerk hire for the District Registry work from the Supreme Court Vote, and that is paid to him by the Paymaster-General for Supreme Court business under Treasury sanction.

51,702. In such cases is the salary divided up into two parts for the purposes of the Estimates?—Yes, it is apportioned.

51,703. Then the payment of the high bailiff's staff is partly a piecework payment, is it not?—Yes, the payment to the high bailiff for service and execution of process was originally composed of details of the process, and was calculated upon a scale, the basis of which was distance. For the service of a summons he received 3d. if the service were within one mile of the court house. The allowance increased with every mile, becoming 2s. 6d. beyond seven miles, and 6d. extra for every mile beyond eight. For the execution of a warrant he received double those rates. The allowance included travelling expenses and all payments to the bailiffs employed. After 1870, mainly to save the work of auditing the numerous details, a different arrangement was made as vacancies occurred. A fixed allowance was granted, calculated on the average produce of the scale in a period of three years. There is now no automatic fluctuation with a rise or fall in the work. On a substantial increase of business, an application is made to the Treasury to revise the allowance, which is then raised accordingly. On the other hand, should the work fall off, a reduction is effected only as a vacancy occurs in the staff of bailiffs.

51,704. That change of system must have very much simplified the work?—Yes, it has saved a great deal of labour.

51,705. Under the old system it was necessary to audit a number of minute payments and changes?—Yes.

51,706. The present system may be broadly described as a system of piece-work or payment by results?—Yes.

51,707. The staff is considered to be in the employment of the individual registrars and is not pensionable; the clerks are not Civil servants?—No, they are not.

51,708. The individual registrars are appointed by the County Court judge, and the registrar's staff is appointed by the registrars, who are responsible for them?—Yes.

51,709. You are aware that claims have been put forward by the staff that that system is wrong, that the whole staff ought to be treated as in the direct employment of the State, given the status of Civil servants and made pensionable; and I presume it would follow from that that the system of appointment should be changed and that they should not be appointed by the individual registrars?—I think that must follow.

51,710. We should like to have your opinion on that claim, and generally as to whether the arguments put forward in favour of that claim have any validity?—There is, first of all, an explanation, which I think the Commissioners ought to have, as to why the existing system of payment by result was introduced, if I may deal with that point.

51,711. If you please?—When the County Courts were established it was not possible to foretell the extent to which they would be used and the consequent

amount of work and responsibility that would be thrown upon the officers. There was no foundation upon which to construct a scheme of fixed salaries, and the Legislature decided that the officers should be paid by fees, a means adopted for securing that the officers should receive a fair equivalent for their services. The courts were a success; the officers had a direct interest in their efficiency; but the fees, of which there were several tables, were high; and the subject came up for review by a Royal Commission (appointed by Lord Palmerston in 1853). The Commissioners made their report in 1855, recommending the abolition of certain fees and the institution of a scheme of salaries fluctuating with the amount of business to be transacted, measured by plaints. This scheme was adopted (except that instead of an initial salary of 60*l.*, this was fixed at 120*l.*, reduced to 100*l.* in 1888), thus again giving the officers a direct interest in the amount of business drawn to the courts. It seems to have been a good plan; anyhow, it is endorsed by nearly 70 years of efficiency. Its necessity depends upon whether the County Court business is of so stable a character as to justify a fixed salary.

51,712. Do you think it can be said that that particular system contributed largely to the efficiency of the County Court system generally?—I think so. I think it had a great deal to do with it.

51,713. In what way?—I mean to say that the registrars had a direct interest in keeping their staff efficient, in keeping their offices in a state of efficiency, the system providing a stimulus to prudence and energy in the selection of their clerks and management of their offices.

51,714. Do you mean because it was their interest to attract business?—Certainly; unless everything were done in that efficient way, it is obvious that people would not think it worth while to trouble the County Court registrars at all.

51,715. You think that if the registrar did not have a direct pecuniary interest in the success of his court, he would not have the same incentive or inducement to satisfy the public?—I do think so.

51,716. (*Sir John Kempe.*) I suppose by attracting business you mean not driving away business?—Yes, not driving away business.

51,717. (*Sir Donald MacAlister.*) The suitors always have the alternative of the High Court?—Yes, in many cases they have.

51,718. (*Chairman.*) Have they other alternatives besides the High Court?—They have; there are Courts of Record, and in London there is the Mayor's Court; in Salford there is the Salford Court of Record; in Derby there is the Derby Court of Record, and in many places there are Courts of Record.

51,719. And apart from the question of alternative courts, if the business is not done quickly and efficiently, and to the satisfaction of the public, they would prefer to let small debts go?—Yes, I have had experience of that. I have actually seen, where the registrar has not been as attentive as he ought to be, that the business has fallen off.

51,720. What is the present position as regards the business of the County Courts; is it increasing or diminishing?—The tendency at the present time is to diminish, and I think that will continue, and will become more marked if the power of securing obedience to the orders of the Court by imprisonment should be seriously interfered with. The basis of a fixed salary would presumably be the statistics of a series of past years, say, three or five, and in the circumstances that could hardly be recommended.

51,721. Are you speaking of a fixed salary for the registrar just now, or for the staff?—A fixed salary for the registrar. The present arrangement is economical. A court is sometimes affected by the removal of a trading firm from one district to another, and in such a case the loss to the former of, say, 1,000 plaints a year, can be adjusted without expense. With fixed salaries this would not be so. The officer whose business had been taken away would still receive his salary; the officer who had acquired the increase of business would expect his fixed salary to be increased unless it were a statutory one.

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51,722. The automatic decrease of which you speak applies to courts below 6,000?—Yes.

51,723. You told us that in courts above 6,000 an adjustment downwards does not take place, or only takes place on a vacancy?—An adjustment downwards, you mean, in the case of clerks. I was speaking here of a fixed salary for registrars. The fixed salary now for registrars above 6,000 is 700*l*.

51,724. What is the minimum net salary?—The minimum net salary is 650*l*. There is only a margin of 50*l*., which is equivalent to 12*s*. 6*d*. for every 25 pounds.

51,725. Within those somewhat narrow limits, does adjustment downwards ever take place?—Yes.

51,726. Even although there has not been a fresh appointment of registrar?—Yes.

51,727. Does adjustment downwards in the allowance for clerk hire take place if there is a diminution of business?—Adjustment downwards, no. In the case of clerk hire we cannot touch it unless there is a vacancy—or we never do, speaking generally.

51,728. Once raised it remains up until there is a vacancy?—Yes; and that accounts for the clerks saying that sometimes a court with more business is getting a less allowance than another court with less business. A registrar applies to the Treasury, after a series of prosperous years, and gets his clerk hire raised, and then that may go on for a period of five years perhaps, and the complaints drop, but you have not been able to effect any reduction in the clerk hire allowance; whereas, in some other court with rather more complaints, and with a smaller allowance, the clerks complain and say they are not getting enough. That, of course, is one of the inequalities that you cannot help. I do not see how you could adjust a thing of that sort unless you took the arbitrary method of reducing the allowance to the larger court which has, since the fixing of this allowance, become a smaller court by a reduction of business. Of course the object in not reducing the allowance is not to cause hardship to the clerks.

51,729. Is that hardship not caused in the smaller courts if there is a diminution of business?—I do not believe it ever is caused; I believe the registrar is very good to his clerks.

51,730. You mean that if there is a diminution the registrar takes it off his own part of the remuneration and not off his clerks?—Yes, I quite believe it.

51,731. If the diminution of business was large I presume he would meet it by a reduction in the number of his clerks?—It is possible that he might do so. I have not heard that he has. I think many of the registrars have been very badly hit by the war and are paying their clerks exactly the same as they did before; they are suffering the loss, not the clerks.

51,732. Do you think that the system of payment by results has conduced to the efficiency of the courts and the convenience of the public?—Yes, entirely.

51,733. Do you think there are any objections to which it is open from the point of view of the administration of justice?—I do not think there is any reason to suppose that there is anything prejudicial to justice in such a system. The officers can only attract business to the County Court by keeping their office and staff in a state of efficiency. It is possible that if a judge will not exercise his power to commit to prison in proper cases, people will refrain from proceeding in the court because of the uselessness of going to the expense of obtaining a judgment which cannot be enforced. In such matters, however, no judge would be influenced by the officers of the court to commit debtors to prison against his own inclination. That, I think, was the suggestion of the clerks. It has been suggested also, as an objection to payment by results, that a registrar may be led to grant leave to issue a summons in his court against a person residing out of the district on insufficient grounds, for the sake of increasing his salary. I think that there are two answers to that objection: in the first place his brother registrars' remuneration would be lessened and they would object.

51,734. (Mr. Coward.) They would not hear of it?—Yes, they would, because the summons would be sent

to them for service, and they would return it; and they occasionally have done so; I have had three cases in 17 years. And in the next place, the defendant himself could question the jurisdiction. Three instances have come before me in 17 years, and in each case the information came from a registrar who thought the action belonged to his court. I struck those three complaints out of the respective registrars' claims for salary, leaving them to appeal to the Lord Chancellor if they thought proper to do so.

51,735. Probably the proportion of cases such as you have just been discussing would be very small in comparison with the number of complaints issued in the particular court?—Yes. It is a ridiculous suggestion altogether, because unless the registrar could get 25 of them he could not get an increase in his salary at all.

51,736. (Chairman.) From the point of view of the clerks themselves, will you give us your opinion as to the arguments they put forward, the main argument being that they are employed on work of the State, that in many cases they are in whole-time employment, and therefore they consider that they ought to be treated as Civil servants and placed upon the permanent establishment?—Well, we have rather been on that, I think, in the evidence before—I mean as to the utility of the present system and as to its success and efficiency; all that, I rather think, is in favour of preserving a system under which the registrar has *carte blanche* and can do as he pleases with his staff.

51,737. I should like to go a little further into that point. You attach importance, I gather, to the personal control that the registrar exercises over clerks whom he appoints himself, and whom he can dismiss himself?—Yes.

51,738. If the staff were made permanent Civil servants, the registrar would not have that individual power of appointment and dismissal, presumably?—He would not have power either to appoint or dismiss, I imagine.

51,739. And you consider that that would seriously interfere with his powers of control over his staff?—Yes.

51,740. Would that argument not apply practically to the whole of the Civil Service?—I dare say it would.

51,741. Throughout the Civil Service you constantly have a staff under the control of an officer who has not himself power of appointment or dismissal of the staff?—Yes, I should think it would probably apply; but then there is no head of a Civil Service department who has to undertake the risks that registrars and high bailiffs have to undertake.

51,742. There are public departments which deal with large amounts of money, in which individual members of the staff are constantly dealing with large amounts of money, and in that case, if there are losses, somebody has to be made responsible?—I suppose that somebody would be the delinquent; it would not be the head of his department, unless there was negligence, and that could be proved against him.

51,743. Probably not; but is there any conclusive reason why that individual responsibility of the head of the department should be more essential in the case of County Courts than in the case, say, of a post office?—It is a difficult question to answer.

51,744. I will put it to you in this way. In a post office large sums of money pass through the hands of the staff—very much larger sums, taking the aggregate, than pass through the hands of County Court officials. A postmaster, or the head of a post office, is not responsible for any deficiency on the part of his subordinates; the subordinate in whose hands the deficiency occurs is responsible. That system works satisfactorily, certainly so far as the aggregate amount of losses is concerned, which is insignificant. Is there any conclusive reason why a similar system should be out of the question in the case of County Court staffs?—When you say a conclusive reason, I do not quite know whether we are starting on a clean sheet, or whether we have to take things as we find them; because it certainly is a conclusive reason if the Act puts the responsibility upon the registrar and makes him give security for everything. I do not know whether you would consider that

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a conclusive reason; that is, taking things as we find them. If it was contemplated to alter that position it might be different.

51,745. If the position of the staff were to be altered in the manner they suggest, clearly legislation would be necessary; therefore we may take into consideration any amendments of the Act that would be necessary for the purpose of such alteration?—If that were so, then, instead of taking security from the registrar to cover everything that happens in his office, we could only take security to cover his personal acts or negligence.

51,746. (Mr. Coward.) Have you ever made a registrar responsible for anything else?—Yes, always. It does not matter in the least whether he knows anything about it, he is responsible for everything; he indemnifies the State and indemnifies the individual.

51,747. (Chairman.) Does the registrar often take fidelity guarantees from his staff?—Yes, I believe he frequently does; but they do not cover everything; they do not cover mistakes. The registrar is responsible for mistakes. If a man makes a mistake and carries an amount to a wrong account in the ledger and it gets paid out to the suitor, the registrar has to make it good.

51,748. Have you any idea of the amount of losses incurred by registrars on that account?—I am afraid I have not. Defalcations are considerable, not as considerable as they used to be. When I first went there we used to get one about every fortnight; we get about six in 12 months now. Sometimes they are considerable, as much as 400*l.* or 500*l.*, and we have had them 700*l.* The registrars have to find the money.

51,749. (Sir John Kempe.) Fidelity guarantees can be made to cover mistakes?—Oh, they can? Thank you.

51,750. (Chairman.) I gather that you think the present system of responsibility works satisfactorily, and that you would not be in favour of the alteration of that system that would be necessary if the staff were to be made independent of individual appointment and dismissal by the registrar?—I think this is the best system; I think it is a system that has been successful, and it is perfectly easy as a matter of administration. At present we have some 560 points of contact, so to speak. If you had an army of established clerks and bailiffs, each with the right to approach either the Lord Chancellor or the Treasury on questions of discipline which are now left to the discretion of the registrar, I imagine that the system of control and administration would require strengthening and would become more costly. Then there is the question of audit which, although it is a subsidiary one, cannot be entirely disregarded. The transactions in County Courts, often small in amount, number millions, and such an audit as would be required if the registrars could not be held personally responsible would cost far more than it does at present. The millions of postings from cash books to ledgers could not be checked by my present staff of examiners, nor has it been necessary to check them, because any deficiency on the audited balance sheet has always been made good by the registrar. But when his liability is repudiated, it would not be possible to fix liability for defalcations or mistakes upon any particular clerk, without auditing every posting; in other words, the audit would have to be a complete one, and a very large addition to the staff would have to be faced.

51,751. Is there any detailed audit at present of registrars' accounts?—Yes, the audit that used to be conducted by the treasurers has been taken over by the County Courts Department. I have men who travel from court to court and examine the accounts; they are examining the fees. In fact, I have here a statement in detail of their duties, and I think, perhaps, rather than my giving oral evidence on this subject, it would be better if I were to hand in that statement; it is a lengthy one (*handing in the same*).

51,752. Thank you. I take it that the principal object of the claim put forward on behalf of the clerks, or one of the principal objects, is to obtain pensions. Do you think from your experience that practical inconvenience arises at present from the absence of a

pension system?—I do not think any inconvenience arises. I think that probably some of the junior clerks are retarded in their promotion because men stay on. I know of one case of a man, 81 years of age, who has been in the County Court probably all his life under successive registrars, and he is still efficient. He has had the advantage, of course, of that; he has been earning his salary, whereas, if he had been a Civil servant, he would have retired at 65 on pension. But I do not think there is any other sort of inconvenience.

51,753. A fixed age for retirement does not necessarily go with a system of pensions?—In the case of legal departments, I suppose it does not.

51,754. Although there is a system of pensions it is the case, nevertheless, in legal departments, that a certain number of officers remain to an advanced age?—Yes.

51,755. So that a system of pensions in itself would not deal with the question of promotion?—No. Then I do not see, unless you could compel a man to retire at a certain age, that a pension would be any advantage to a County Court officer, because he remains on as long as he can work.

51,756. But what happens in the case of a man who gets beyond his work?—If a man gets beyond the work he has been accustomed to do, they give him some other duty, and as a rule, he earns something certainly sufficient to keep him alive.

51,757. And if a man breaks down from ill-health or incapacity of some kind?—If a man breaks down he is allowed his full salary for six months; or if he comes under the Insurance Scheme he gets his full salary for six weeks and half salary for 40 weeks. The two together are the equivalent of six months' salary. He gets nothing beyond that.

51,758. After that he gets nothing?—Nothing at all.

51,759. (Mr. Graham Wallas.) When you say he is allowed that, do you mean that he is allowed it by the individual kindness of the registrar, or is there any rule of the Treasury which enforces it?—The Treasury does not enforce anything, but if the registrar submits the case to the Treasury, it will come under the usual Treasury regulation; the Treasury will allow as a concession the usual thing in the case of injured servants, namely, six weeks on full pay. It is Section 47, I think, of the National Insurance Act; they get full pay for six weeks.

51,760. I am not talking of the National Insurance Act, I am talking about your statement that they get six months' full pay, which you spoke of apparently as a universal rule. How is that rule enforced?—It never is enforced; it is rather in the nature of a concession. If a registrar applies for it, he always applies that a substitute shall be appointed during the man's sick leave; it comes in that way. It means an extra payment by the Treasury allowed in the registrars' accounts.

51,761. (Chairman.) In fact, it is an addition to the clerk-hire allowance for that particular purpose?—Yes.

51,762. Have any suggestions ever been made for a contributory pension system?—Yes, I believe your Secretary has a précis of the Treasury correspondence about it. Some two years ago, I think it was, Mr. Hobhouse was approached at Bristol by Mr. Hemans and some other clerk employed at the Bristol Court, who suggested that there should be some scheme of contributory pensions. Mr. Hobhouse said he was quite willing to consider it; he did not promise any money, but if they proved that it was a suitable scheme advised on by an actuary, he would be very glad to consider it; he gave them some encouragement in that way without promising any money. But it never came to anything, because they were unable to get from the County Court clerks particulars of their ages and salaries. I do not know how that was. It raised a suspicion in my mind that they were not fully representative; because if the County Court clerks in courts over 6,000 plaintiffs were all joined in a sort of society to forward their own interests, one would suppose that there would be no difficulty in getting all the information wanted. But there was difficulty, and the thing dropped.

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51,763. No scheme has ever been put forward?—No.

51,764. Does a scheme of that kind exist in the City of London Court?—I am told that it does. I do not know anything about it personally. I am told there is some such scheme.

51,765. I see in the report of the 1900 Committee a statement that the clerks of the City of London Court pay 2½ per cent to a pension fund. You are not acquainted with the details of that fund?—No, I am not. I do not know anything about it.

51,766. Do you see, *prima facie*, any reason why a contributory scheme should not work for County Court clerks?—I do not see why it should not. There are plenty of them, I should think quite enough of them, to form a very good scheme.

51,767. There is one point that has not been mentioned yet that has some bearing on a pension scheme. When there is a change in the registrar he has the power of appointing a fresh staff if he likes, has he not?—He has the power, but he does not exercise it.

51,768. As a matter of fact, is the staff ever changed on a change of registrar?—I should say No. I have not made enquiries, but I have never heard of a case in which the registrar has changed his clerks on appointment.

51,769. You think that they have practically permanency of tenure?—I think so, practically; they are always retained by the registrar's successors.

51,770. At any rate they have sufficient permanency to make a pension scheme perfectly practicable?—I think so.

51,771. The absence of security of tenure has been put forward by the clerks as one of the grounds on which they claim that they should be made permanent Civil servants, or rather one of the objections that they raise to the present system. I gather from what you say, that in practice you do not think that objection has very much force?—I feel quite sure it has none, or very little.

51,772. Do you consider that to meet the claim for establishment on the part of the clerks would be likely to increase the total cost of the offices or not?—I think it would. I had a letter, which perhaps you will allow me to read, some years ago when Sir David Brynmor Jones' Committee was sitting, which came from the man who was then chairman of the Registrars' Association. I wrote to him for his views and he sent them to me, and I believe they are the views of the registrars generally. I have a copy of the letter here, if I may read it.

51,773. If you please?—"Dear Mr. Bridgeman, The subject of pensions to registrars' clerks should not be dealt with without full consideration. If pensions are to be given, they must necessarily be so on the Treasury having the right to control the registrars in the promotion and discharge of their clerks. The risks, money, and otherwise, attached to the office of every registrar are too great to allow of his being deprived of the fullest control of his office staff. To allow an unsatisfactory clerk, whom the registrar feels he cannot keep with safety to himself or advantage to the public service, to have a right of appeal to the Treasury, would result in duties having to be undertaken by that department which could not be satisfactorily performed. The Treasury could not attempt to decide all cases on the personal attendance of the registrars and their clerks, nor would the settlement of matters by correspondence be practicable. The fact of a decision adverse to the registrar in any case, would place him in a most difficult position, and would weaken his legitimate authority. A registrar might have the gravest suspicions of the honesty of a clerk and yet not be able to substantiate a case against him; under such circumstances, it may be asked if the registrar must keep the clerk, or is it only open to him to make an apparently unfounded complaint to the Treasury. If the Treasury are prepared to make good all losses arising from dishonest, inefficient, or careless clerks, some of the objections I have raised may not exist. I feel, however, that under any circumstances, if the registrars are not to have the fullest power in the management

"of their offices, a larger outlay for clerks' salaries may be expected, as it is certain that clerks will not do as much work for registrars who are not their masters as they will for those on whom they are dependent." That was from the late Mr. F. F. Clarke, Registrar of Walsall.

51,774. You concur generally in the opinions expressed in that letter?—I concur entirely in those views.

51,775. Turning now to your own department, have you an established staff?—Yes, we have an established staff of examiners and assistant clerks, with a staff clerk coming between.

51,776. How are your examiners appointed?—The examiners are the pick of the County Court clerks. Numbers of them apply for appointment and they are kept on a waiting list in the Treasury, and when a vacancy occurs, four of the most promising are selected and come up for examination.

51,777. Examination by the Civil Service Commissioners?—No; I examine them in the presence of a principal clerk of the Treasury.

51,778. By that do you mean a verbal examination or a written examination?—A verbal examination. I ask them about 50 questions on the subjects of the County Court and the district registry, and on the result of that examination we get the man most familiar with the work; then he is recommended to the Treasury, and the Lords of the Treasury appoint him as an examiner subject to his obtaining the Civil Service certificate.

51,779. Having obtained the Civil Service certificate and having been appointed, he then becomes a permanent Civil servant and is pensionable?—Yes.

51,780. Subject to the ordinary Civil Service rules and regulations?—Yes.

51,781. At what age are they generally appointed?—The average age is 35.

51,782. And you find the result satisfactory?—Yes, on the whole. I think we get the pick of the County Court clerks.

51,783. Are you satisfied with the organisation of the office?—Yes, I think quite so. Of course we are on three floors; if we could get all on to one floor it would be more convenient.

51,784. Your staff come under the ordinary Civil Service rules as regards hours of attendance, leave, sick leave, and so forth?—Generally speaking, yes.

51,785. (Mr. Boutwood.) I have only one question to ask you. Have you in front of you the statement of the County Court clerks?—I have it here.

51,786. On the last page, in paragraph 3, they say: "The County Court officials, by the alteration of the words of the last County Court Act, after assurance from the Treasury that no alteration in their status would be made, were astounded to find that their position as Government servants is interfered with." What does that mean?—I know what it means; but I thought that statement had been withdrawn. The late Chancellor of the Exchequer under the previous Government, Mr. Austen Chamberlain, received a deputation from these clerks, which was introduced by Sir David Brynmor Jones, and he most completely withdrew that allegation which is now repeated. It is really an allegation of bad faith on the part of the Treasury, for which there is no foundation whatever. It arose in this way. In the Act of 1856, 19 & 20 Victoria, cap. 108, there was a provision that, in the case of certain registrars who were taken over from Courts of Request, their net salaries should not be less than they were in their former positions; but in order to arrive at that, the clerks' salaries had to be deducted, and there was a provision as regards those registrars that the Treasury should decide the number of clerks to be employed, and the salaries to be paid to them. That was not in favour of the clerks; it was not to give them any status, but it was to see that the registrar's net salary was ascertained in the proper way. That was the real object of it; but the clerks seemed to think that it gave them some sort of status, and the general body of clerks in the County Courts seem to have taken it as applying to themselves, although it only applied to particular courts where the registrars had

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been taken over from the old Courts of Request. When the Consolidation Act of 1888 was under consideration, the clerks wrote to Mr. Nicol, asking whether their status was likely to be altered, and he replied, No; that there was no intention of altering their status; but inasmuch as all these old officers had died out, that provision about those clerks was not inserted in the Act of 1888. That is the foundation for this allegation.

51,787. (*Sir Donald MacAlister.*) The old provision could not have applied to any of the clerks who are now presenting this allegation?—No.

51,788. (*Mr. Graham Wallas.*) Would you agree that the system which you call payment by results was at one time almost universal in the public service?—I am afraid I do not know.

51,789. It applied to the collection of revenue, it applied to the Commissioner of Stamps, who used to receive a percentage on what he collected?—It applied largely in the Law Courts.

51,790. It applied to the expenditure of public revenues and to the Paymaster-General also; he and his subordinates received a percentage on what was paid?—I am afraid my knowledge is rather limited about it. I do not know. I will take it from you.

51,791. You may take it that from 150 to 100 years ago there was a very large system in the public service of payment by fees, the fees depending upon the extent of business done?—I dare say it was so. I will certainly take it from you.

51,792. Could you say whether in the 19th century there has been in the public service generally a marked and general diminution in that system?—As I do not know much about its existence, I am afraid I cannot compare the two periods.

51,793. Then in that case, if I may go to existing facts, you say that a system of payment by fixed salaries would be difficult because the amount of work in any particular County Court varies. A court you say is sometimes affected by the removal of a debtor from one district to another?—Yes.

51,794. That would apply in such instances as the excise also; the amount of business in a particular excise district might be enormously affected by the opening or shutting of a great distillery, might it not?—I should think it might.

51,795. That does not prevent, in the Inland Revenue Department, the payment of fixed salaries, does it?—Really I do not know what they do; but I will accept it from you that it does not.

51,796. You can imagine at any rate that it would be possible, if the business in a particular area were very largely increased by the opening of a great distillery, to appoint another official, and if the business largely decreased by the shutting of a great distillery, it would be possible to meet that by the transference of an official?—Yes.

51,797. Is not that conceivable also in the case of County Court business?—I do not know whether the two things are comparable. In the case of registrars, the registrar would get a fixed salary. I do not know who the corresponding officer would be in the excise; probably the collector. The collector has a fixed salary, but he has a very great variety of duties, I imagine, and if one is falling off another is coming on, probably.

51,798. But if in a certain district there is a large shift of population or a large shift of distilling, it is possible to increase or diminish the number of collectors in the district?—I should think it is quite possible to do that, to transfer a collector somewhere else and to put another collector there, as you were saying. I do not know whether you could do that with the registrars, unless you had power under some Act of Parliament.

51,799. Assuming throughout that our business is to advise Parliament on legislation as well as to advise the executive Government on Orders in Council, would you not agree that undoubtedly almost anything we are likely to propose with regard to different departments would require legislation?—I should think that is extremely likely to be so.

51,800. (*Chairman.*) In any question of transfer of clerks, would not great difficulty arise from the fact that in most cases the registrars have private business

of their own as well?—Yes, there is that difficulty, and a very serious difficulty, too. That is why I do not think there is any comparison.

51,801. (*Mr. Graham Wallas.*) That, again would be a difficulty that used to apply to nearly the whole of the public service, and must have been got over by appointing extra officials or by transfer?—I think it would be extremely difficult in the case of registrars of County Courts.

51,802. Then you stated that the basis of a fixed salary would be presumably the statistics of a series of past years. Now, when an attempt is made to provide everybody with a sufficient amount of work as, for instance, for the excise, no such basis is in fact used, is it?—There, again, I am afraid I am quite ignorant of that; but I can tell you that that is the practice in the Treasury with regard to the registrar of a County Court. If we give a fixed salary it is always based on the average of the produce of his various remunerations for three years, his net remuneration.

51,803. But, supposing we were appointing a system of superintending postmasters or postmasters of large districts, you might vary the district so as to provide sufficient work for a good man, instead of taking the district as fixed and varying the salary according to the return of business, might you not?—But here you could not vary the district.

51,804. (*Mr. Coward.*) The registrar is fixed there?—Yes.

51,805. (*Mr. Graham Wallas.*) But do you think it would not be possible in course of time so to rearrange the County Court districts that there shall not be, either for judge or registrar, any district which does not provide adequate work for a man in the enjoyment of a good fixed salary?—I do not see how you could. But the object of the Legislature was entirely different; the object of the Legislature was to provide convenient centres for people regardless altogether of the amount of business to be drawn to those centres.

51,806. Then in the Paper which we have from one of the County Court officials, Mr. Fletcher, he is quoting judges, and he says: "One of these judges said in effect that he regretted that the registrars of courts under 6,000 plaintiffs were paid by results, as he felt that his registrars, all excellent men, could not but be influenced by this circumstance, though entirely sub-consciously, in their attitude towards such questions as judgment summons and imprisonment for debt." Would you agree with that statement?—I do not know what it means.

51,807. It was apparently made to a meeting of persons thoroughly familiar with the system by a person who is professionally employed under the system; but you think it had in fact no meaning?—I should say that it has no meaning unless it is a very base innuendo.

51,808. I only want to know. Do not you think it is more likely that it had some meaning than no meaning, even if it was a base innuendo?—I think that the innuendo is that the judge and the registrar conspire together to increase the business by committing people to prison.

51,809. And you think that innuendo may be neglected?—I think so; I hope so.

51,810. But would you agree that it is not purely a question of deliberate conspiracy, but it may be a question of a difference of opinion—a difference of feeling on a very difficult point?—But it has no real meaning at all, unless it means that from the clerks' point of view. They are trying to show the effect of payment by results, and, if it means anything, it means that the registrar tries to get a larger salary by having people committed to prison. Unless it has that meaning, it has no meaning at all from the clerks' point of view.

51,811. In the memorandum which you have submitted to us, you say: "It is possible that if a judge will not exercise his power to commit to prison in proper cases, people will refrain from proceeding in the court because of the uselessness of going to the expense of obtaining a judgment which cannot be enforced." There, I think, you make no innuendo against the judge. It is a very difficult question of opinion whether people ought to be committed in certain

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cases to prison or not, and you think that some judges may exercise their discretion wrongly on that difficult point; they may, as you think, not commit to prison people whom they ought?—I think they refrain from exercising their discretion at all, and decline to commit because they are biased against imprisonment for debt, as they call it.

51,812. Then you agree, without making any base innuendo, that a judge may commit to prison too little?—Yes, I do, most certainly. I have had experience of it.

51,813. But you think it is quite inconceivable that he may commit to prison too much?—I do not even say that; but I do object to the suggestion that the registrar influences him to commit.

51,814. But you would agree that if it is conceivable that he does commit to prison too much, then the revenue connected with his court in certain cases—the payment assigned to the officials—would increase, or might increase?—I think it would. I think that if suitors found that they could get their money by coming to that court, they certainly would come.

51,815. I am assuming in this case that he commits to prison too much, more than you think desirable. In that case the revenue would be larger than if he committed to prison to the exact extent that you think desirable?—I cannot say “too much.” I can say that relatively to other judges he commits more. I do not think that I am in a position to say “too much,” but I say that relatively he commits more than another judge would.

51,816. But while it is a serious evil that a judge may commit to prison too little, you will agree that it is at least an equally serious evil if he commits to prison too much?—Yes, quite so, without committing myself to either. Whether they do or not, the registrar has no power to commit anybody to prison.

51,817. You refer, I see, in your memorandum to a certain difficulty arising from the absence of pensions; you say that, “A difficulty confronting the registrars is, ‘I think, how to dispense with the services of their ‘clerks when they are past work’; you would agree that there is such a difficulty?—There is such a difficulty, which they endeavour to deal with as far as they can.”

51,818. Would you mind outlining the way in which you think that difficulty ought to be dealt with?—The way in which the registrars actually deal with it is this: If a man is an inefficient man the difficulty, of course, does not arise at all because of his age; but if he becomes inefficient on account of age, then, I believe, as a rule, they give some less important duty to the man and keep him on at a less remuneration.

51,819. Then you would say that there is a difficulty confronting the registrar as to how to dispense with the service of clerks when they are past work, and they get over the difficulty by not dispensing with them at all, even although they are, as you say, past work?—I did not say past work, did I? I said, less efficient than they were before.

51,820. I do not want to cross-examine you, but your words are “when they are past work”?—Have I said that? I beg your pardon. There may be cases in which they are past work. I do not know how many cases.

51,821. I assume that there must be cases, because you say, “The difficulty confronting the registrars is, ‘I think, how to dispense with the services of their ‘clerks when they are past work.’ It is a difficulty, I think, we all feel, and we want your help as to how you would propose in that particular case, when a man was in fact past work, to deal with the difficulty; how you think the registrar ought at present to deal with that difficulty?—I do not quite know what he ought to do. I suppose he would deal with the man somewhat in the same way as he would if he were in his private office.”

51,822. (Mr. Coward.) Give him lighter work to do?—Yes. I do not intend that “past work” should mean that the man was entirely unable to do anything. I think it was probably an unwise phrase to use. I think I ought to have said “less efficient than formerly.”

51,823. (Mr. Graham Wallas.) But you tell us that as regards tenure, “I do not think a clerk is ever dismissed except for misconduct,” do you not?—I agree to that; those are my words.

51,824. If a man is never dismissed except for misconduct, if he is kept on till death in all cases except for misconduct, surely there must be cases in which they are past work?—I am afraid I cannot say more than I have said on that subject.

51,825. Then you say that, “If the whole body of ‘clerks and bailiffs were established, each would have ‘the right to approach either the Lord Chancellor or ‘the Treasury on matters of discipline.’ Now, there is a great body of Post Office officials and a great body of Excise officials, and you would agree that means are found to exercise discipline without bringing every case of discipline before either the Chancellor of the Exchequer or the Postmaster-General?—I should think it is very likely.

51,826. You say, “If you create an army of established clerks and bailiffs, each with the right to ‘approach either the Lord Chancellor or the Treasury.’ Establishment does not involve direct access, in all questions of discipline, to the ultimate head of a great department, does it?—I mean the department. I do not mean the person of the Lord Chancellor or the person of the Chancellor of the Exchequer; I mean the department of either.

51,827. You agree, therefore, that establishment might be consistent with discipline without breaking down the machine at all?—I do not think it would break the machine down; but what I think is, that the administrative control would have to be strengthened, because it would become a very serious question. Take the case of a clerk who has been put upon a scale of salary and who does something which may not be outrageously bad, but something the registrar disapproves of, and he says to him, “I shall stop your increment this year.” There are 500 courts, and it might frequently happen. The clerk would consider that he had a right to appeal to somebody; I do not care whether it is to the Lord Chancellor or to the Treasury or to myself; but that is going to increase the administrative work considerably. At present we have so many points of contact, and we never have anything to do with the clerks at all.

51,828. (Mr. Coward.) The registrars take the responsibility?—Entirely.

51,829. (Mr. Graham Wallas.) But in every Government department minor points of discipline are arranged for without necessarily exercising a severe strain upon the ultimate directing power, are they not?—I do not know how that may be; but I think that, with 500 County Courts, these questions would frequently arise, and you must have some central department to deal with them. There would have to be a central department to deal with appointments and promotions, and it may be, removals from one district to another. The method of administration would have to be strengthened in some form.

51,830. You have in your own department 26 examiners of accounts?—Yes.

51,831. And they are practically the only representatives of the central Government who visit and control the County Courts, because, as you point out, the Lord Chancellor has no corresponding officials?—That is so.

51,832. Their work therefore is of extreme importance, you agree?—Yes.

51,833. Not only to the Government, but to litigants and to the public generally?—Yes, certainly.

51,834. At present they are appointed by a system which you describe as four men selected for each appointment from a waiting list containing names of clerks appointed in the County Courts; the average age on appointment is 35 years, and they are appointed after a *viva voce* examination conducted by yourself in the presence, I think, of another Treasury official?—That is so.

51,835. That is an interesting type of limited competition, and I suppose it gives you, from the moment of the man's appointment, a man very experienced in the particular kind of work he will have to do?—It does.

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51,836. Have you ever thought whether a system by which you got men of perhaps greater natural ability but less experience, and trained them in their work, might, in the whole run of a man's life, have better effects?—What sort of man may you be referring to?

51,837. I take the man that you refer to as your staff clerk. You say you have a staff clerk who entered the public service by open competition as a second division clerk, and got into administrative work by open competition. Do you think he would have been capable of learning the work of an examiner?—I dare say he would in time; but I do not want a man who has to learn the work; I want a man that I can put on to the work at once.

51,838. You think that in this case the disadvantage of having to train your man would outweigh any advantage of getting a rather longer period of service out of him, and possibly getting a more able man at the beginning?—I think it is very likely; because after all we do get fairly able men, because we get the pick of the County Court clerks. One of them is a barrister, he has been called to the Bar since he was appointed to the department.

51,839. Then assuming that you appoint people by a system of competition plus interview, do you think you might have a rather wider means of access. Might not it be known that these posts are going, and so you would get a rather larger body of applicants?—They all know; every County Court clerk knows perfectly well when there is going to be a vacancy. How he gets to know I do not know, but they do know.

51,840. But the ideally best man may not be a County Court clerk?—I do not know that we should entertain anybody but a County Court clerk; I do not think we should.

51,841. Then you say in your memorandum that a "fusion of small District Probate Registries with High Court and County Court Registries is desirable, and has frequently been recommended by the Treasury." You think that such fusion is entirely desirable?—Most desirable, and quite practicable except for the question of patronage.

51,842. Putting aside for the moment the question of patronage, do you think that fusion accompanied by a certain rearrangement would be more convenient than obsolete districts, so as to make a more convenient administrative division?—What do you mean by obsolete districts, may I ask?

51,843. You spoke of the area of the probate registry or the County Court in some districts as inconveniently small. If a general fusion was adopted, would it not be possible to make the areas generally, rather than in exceptional cases, more convenient than they are now?—I had not thought of that. I do not know. I should like to consider it.

51,844. You say that the difficulty is one of patronage. Would you mind enlarging upon that. The patronage in the case of the district probate registry is in whose hands?—The President of the Probate Division.

51,845. The patronage of a High Court registry is in whose hands?—In the case of a district registrar of the High Court, that is to say, of Liverpool and Manchester, Preston, Durham, and Ipswich, where the district registries are separate entirely from the County Courts, the patronage is in the hands of the Lord Chancellor; but in the case of a district registry attached to a County Court, the patronage is practically in the hands of the County Court judge, because directly the County Court judge appoints the registrar to the County Court he becomes automatically district registrar.

51,846. When one says that the difficulty is one of patronage, I suppose it always means that someone has the right of patronage and is in fact objecting to have that right taken from him?—Yes, I think the difficulty has arisen because the President of the Probate Division and the Lord Chancellor have not been able to come to terms about the appointment; the President is pushing one man and the Lord Chancellor thinks it ought to be given to the County Court registrar. That is the difficulty.

51,847. I do not quite understand. You say that the Lord Chancellor thinks "it" should be given to the County Court registrar; what do you mean exactly?—The probate registry when a vacancy occurs.

51,848. That the minor officials of the probate registry should be appointed by the County Court registrar?—I am thinking about the probate registrar.

51,849. I am asking why there was objection to this fusion. You say that the objection was that the Lord Chancellor and the President of the Probate Division were not able to come to an agreement, and then you said something I did not understand, namely, that the Lord Chancellor desired that "it" should be given to the County Court registrar?—The Lord Chancellor is always in favour of the fusion of the probate registry with the County Court registry where there is a district registry of the High Court as well; but, of course, although he may be in favour of doing that, the President of the Probate Division is not obliged to give way; he has the patronage of the appointment, and unless they can come to an agreement it cannot be done.

51,850. (*Mr. Coward.*) There is great variety in the character and extent of the work done by the County Courts?—Very great variety.

51,851. Some of it is very hard, and the other of it is not?—Well, yes; certainly, relatively, some things are easier than others, but I do not know that they are extremely difficult.

51,852. I should rather put it the other way, that there are some who have comparatively little to do?—Some registrars?

51,853. No, judges—the work done by the County Courts as a whole?—Yes, there is no doubt about that. Some judges work much harder than others.

51,854. They have to?—Yes.

51,855. The present County Courts were established many, many years ago, and they have not been rearranged?—They have not been completely rearranged, but a number of the circuits have been absorbed from time to time.

51,856. Has it occurred to you whether it would be possible further to rearrange them so as to make a considerable reduction in the number of judges required, and in the work to be done generally?—I think it is quite possible that there might be some modification, but I am not sure that you could reduce the number of judges.

51,857. I do not know whether you know that some of these judges, for instance, take about a fortnight or three weeks out of a month's holiday?—I should have hardly thought that. They certainly have a very good time on the whole, but I do not think they take as much holiday as that. I do think that the County Courts might be rearranged, and it is quite possible that if they were rearranged the judges would be able to sit oftener where they are wanted. That is the trouble at the present time; I do not think the judges sit often enough in some places; but that is really more a question for the Lord Chancellor than for the Treasury. The Treasury are interested, of course, but it is peculiarly a question about which the Lord Chancellor would be jealous.

51,858. The only thing I am interested in at the moment as a member of the Commission is whether something could be done to economise the work of the County Court circuits?—Quite so. I think that would be the direction in which it would be done—to make the judges sit oftener.

51,859. Have you considered it? I do not like to take individual circuits, about which, perhaps, I know something, but I do know that a good many of the judges consider that when they have got a County Court judgeship in particular circuits they have got a "very soft thing," as they call it?—Yes.

51,860. If the County Court circuits were rearranged, it might have a great effect upon the number of the registrars appointed?—If you were to rearrange the circuits while the present Act was in existence, you would have to have a registrar for every court.

51,861. But you would have to have a regular rearrangement?—Yes. A statutory rearrangement were you thinking of?

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51,862. Yes?—That would be a different thing.

51,863. (*Sir Donald MacAlister.*) The members of the County Court Clerks and Officers Association make a great point about their all being put on the establishment with a view to superannuation. Is it not one of the great difficulties that the larger proportion of these men are not full-time servants of the Court?—I should say it is not so in the case of clerks and officers, because I believe those are men who are employed in courts having more than 6,000 plaintiffs. I think this is a different association to the one which has really a more ambitious title—the County Court Officials Association, that is the association which represents courts entering less than 6,000 plaintiffs. This particular association of clerks and officers is, I think, confined entirely to clerks and bailiffs employed in courts entering more than 6,000 plaintiffs, and in those courts, I think, so far as official time is concerned, those men are wholly employed in County Courts, district registries, and in Bankruptcy jurisdiction. They might do some evening work. I know some of them are connected with some local societies—co-operative stores and things of that sort—in the evening, but I think during official time they are wholly employed in this particular work.

51,864. Could you give us any idea of the number in proportion to the whole number of clerks and officials in the County Court Association who are so employed for their full time?—I do not know what the membership of this association is. I am inclined to think that it is not truly representative, because so many of the men employed in the courts entering above 6,000 plaintiffs are remarkably well paid, and they would not be so well paid if they were in the Civil Service. I do not think it is truly representative.

51,865. Can you give me any idea of the proportion that these full-time men bear to the whole number of clerks and officials of the County Courts? Is it a half or one-third?—I think I know what you mean. The clerks employed in courts—not the members of the association?

51,866. Yes?—I think you have that in the form of a return which I sent in to the Royal Commission in 1912. There is a lump-sum arrangement. There are 656 men and 11 women, as compared with 761 clerks employed in courts under 6,000 plaintiffs.

51,867. So that the numbers employed for their whole time, and the numbers not employed for their whole time, are approximately the same?—A little less than half of the whole.

51,868. But this statement which has been presented to us purports to be on behalf of clerks in County Courts of all sizes?—I do not know what it means quite. The Clerks and Officers Association is an association of County Court clerks and bailiffs in courts above 6,000 plaintiffs.

51,869. Apart from the difficulty of control, discipline, and so on, it would be an easier matter to establish the clerks whose whole time was given to court work than it would be to provide anything like establishment or pension for those whose services are only partly employed?—Speaking generally, yes.

51,870. So that this appeal, although it appears to be in general terms here, practically applies and can only apply to less than half of the officials of the system of County Courts which we are considering?—Yes. That is, of course, supposing that all these men are seeking to be placed in the Civil Service—which I doubt.

51,871. (*Miss Haldane.*) With regard to the women you were talking of just now, how are those employed?—I am afraid I cannot tell you much about them, because they are only employed at Birmingham, and it is quite a new idea, I believe. I have not been to Birmingham to visit the court for some considerable time, and recently since I was last there, they have introduced girls or women into one of their departments. I rather think it is the Accounts Department, but I have never seen them at work, and I am afraid I cannot explain what they do.

51,872. Do you mean by “recently” that it is in connection with the war?—No, it is not so recent as that—I meant some years ago.

51,873. But you do not know whether they are typists, or assistant clerks, or what they are?—No, but I am inclined to think that they are not typists, with the exception of one, perhaps, who I know does the bankruptcy reporting; she is a shorthand writer. With regard to the others, I rather think they are engaged in the accounts work.

51,874. On your own staff you have assistant clerks Are they established?—In the County Courts Department of the Treasury, yes, they are established men.

51,875. Have you any women in your department?—There is no opportunity of employing women there, because our typewriting is done in the Treasury proper, where they do employ women in the copying department.

51,876. You have no women typists in your department?—We have no typing done at all in the department. It is all done in the copying branch of the Treasury.

51,877. Then you have not considered the matter? I understand the matter has been considered with regard to some of the legal offices of introducing women at the present time, owing to the necessity for getting for war service all the men possible, but you have never had the question come up in your department?—I am afraid not. I have never considered it, certainly. It has not come before me.

51,878. Do you think it is a question which will come up?—I doubt whether it will, because our staff consists mainly of examiners who go travelling all over the country and have to have peculiarly skilled qualifications.

51,879. I was talking of assistant clerks at the moment?—We have only a few assistant clerks.

51,880. How many have you?—Four assistant clerks. I am afraid there is not much room for any arrangement for employing ladies there.

51,881. And the housing accommodation for your work is not very satisfactory, you say?—We should be very much better off if we could get them all on to one floor. We are spread about rather. Of course, the Treasury has outgrown itself.

51,882. (*Sir John Kempe.*) Can you tell us whether any results followed the report of that Committee of 1900. Was any recommendation of theirs carried out?—I do not think so. The Treasury never heard officially about that report for two years, and then the Lord Chancellor sent on the report of the Committee and seemed to assume that the Committee's report was favourable to the establishment of these men. I do not know whether the Commissioners have read that report, but I do not think it is in favour of establishment.

51,883. That Committee said: “The object of the Legislature was to create local courts, the actual working of which should be as far as possible independent of central control, and, therefore, distinct from the usual organisation of the Civil Service,” and they went on, as you say, to object to the organisation on Civil Service lines. But I rather understand that you approved of the establishment of the staff above the 6,000 plaintiff limit?—I do not think I have said that. I did not intend to.

51,884. On page 11 of your statement you say, “Subject to the considerations I have already suggested as to establishing registrar's clerks, the only offices in which this course could be conveniently taken would be those of the 12 County Courts in which the registrars are excluded from private practice”—those would be the courts above 6,000 plaintiffs?—But the adjectival phrase there is of more importance than the substantive one.

51,885. Then you would not support that on the whole?—Those are not the courts above 6,000 plaintiffs. Those are the courts in which there are pensionable registrars, and I was trying to explain that whatever difficulties there may be with regard to other courts—and I think there are many—they would not be so great in the case of those 12 courts. That seems to me to be the only line, if it were decided to establish any, that could be drawn.

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51,886. The reason of the existing system of organisation, that is to say, the making of solicitors registrars and allowing them to use their own clerks, is to meet the difficulty of the varying work in different places?—Yes.

51,887. That is the main point of it. Exactly the same thing exists in the case of post offices. In the case of a post office a local grocer, say, is made post master, and is allowed to employ a staff of his own and pay them, or else he can have—I think I am right in saying—a clerk from the regular post office organisation to help in his office?—Yes.

51,888. Would not that arrangement be possible in the case of County Courts?—I do not think the circumstances are quite on the same lines, although I do not pretend to say that I can explain the difference. What I do think is, that you would largely increase the expense of administration, and that your inspectorate would be a very expensive one—far more expensive than the class of examiners we have at present. I think the men would be in a different position if they were Civil servants, and I think the inspectorate would have to be something different. We should have to have a higher class of man altogether.

51,889. Why should it be different from the case of a post office. That is controlled from a central office. Your own office would be in control of the staff; somebody would be at the head of it?—I do not know how far I could do that if these men were Civil servants. I think we should have to have a larger staff and a more elaborate arrangement, and I think it would be more costly.

51,890. In what way would it be different from a post office, because the local grocer is subject to the post office quite as much? You might make the County Court registrar subject to some central authority in the same way; I do not see why it should be more expensive?—At present there is no central authority to whom any of these clerks can appeal; they must appeal to the registrar. If you have an army of men, each of whom would have the right of appealing to some central authority, it seems rather obvious, I fancy, that that central authority would have to be something different from what we have at present.

51,891. As to the question of audit, one of the difficulties suggested was that if you have established clerks you would find a difficulty in the audit?—Yes.

51,892. You said any deficiency in the audited balance is always made good by the registrar?—Yes.

51,893. In what way is that deficiency ascertained now?—In this way: in the first place the examiner takes care to see that the cash book agrees with the registrar's cash balance in hand, or at the banks, or in my hands, and then at the end of the year to see also that the whole of the balances in the ledger agree with the cash book. Supposing there should be a difference, we give the registrar one year in which to discover that difference, and at the end of that year, if the difference has not been discovered, he has to make it good, supposing it is on the wrong side; and if it is on the other side, he has to carry the surplus to a suspense account in the ledger, and there it remains for six years, and if the mistakes—the identical mistakes—which have caused that surplus have not been discovered the Treasury take it over as forfeited suitors' money. That is the position at present.

51,894. Then you take no steps to ascertain the correctness of the accounts beyond examining the balances on either side. You do not audit the detailed items at all?—It is an examination. I have handed in a statement showing what the examiners' duties are. It is a very elaborate statement, and you will find that the examiners are very much worked; there is a tremendous amount for them to do. They have no opportunity and no time for examining the millions of postings. I should think there are eight or nine millions of postings from cash books to ledgers. They could not possibly do that work; in fact you would have to have an examiner on the spot. The way in which they ascertain the figures which they report to the Treasury is this. They take care to cast the cash-book, and to cast the pass-book, and to compare one thing with the other in order to ascertain the correctness—I am talking about

the suitors' cash only, but there is a great deal besides suitors' cash. Then at the end of the year the whole of the balances are taken out from the ledger on to the balance-sheet, and those balances are carefully examined with the ledger, every item in the ledger is cast up, and the balances are ascertained by the examiner. They have already been ascertained by the clerk in the office, but the examiner does it by way of check. Then he carries those balances into the balance-sheet, sees that they are correctly stated there, and that is really the extent of his audit of the suitors' money.

51,895. I understand your duty, in fact, is confined simply to the passing of balance-sheets, so to speak; you do not go into the details of the expenditure at all?—Only here and there by way of check as regards postings to the ledgers. Suitors' money is not expenditure; the latter is fully audited.

51,896. Supposing a registrar did not appoint his own clerks I do not see what difference it would make in his responsibility?—It would make a very serious difference. A registrar's clerk carries a sum of 10*l.*, we will say—because sometimes they have large payments—from the cash-book to the wrong account in the ledger, and the suitor comes in and another clerk turns up the ledger and finds that there is 10*l.* to the credit of that particular man and he pays the money out. When the right man comes in for his money there is nothing to his credit, and he says: "I understood the defendant had paid 10*l.* in." There is a loss of 10*l.* there, which the registrar has to make good. If he were a Civil servant he would not have to make it good.

51,897. But he would be responsible for the mistake. In the case of public departments, like the Customs or the Post Office, the head of the particular branch is responsible for the accounts, to see that they are correct, in exactly the same way. I cannot see the difference between the position of a registrar and the position of a postmaster?—I should speak with the greatest diffidence after hearing what you have said, but I have never yet heard of a Civil servant having to put his hand in his pocket to make good the deficiencies or mistakes made by his clerk.

51,898. But he is responsible and can be dismissed if it is anything serious, just as the registrar is made pecuniarily responsible. The Civil servant is, strictly speaking, pecuniarily responsible, although I agree with you that it is not very often enforced. I cannot see that it makes any difference whether the registrar appoints his own clerks or not. You say the clerks are responsible now. Who makes them responsible? The registrar does, I suppose?—I say that the registrars are responsible for everything that their clerks do or omit to do.

51,899. But a registrar has to be responsible for his clerks because he has to see that they do their work and do not make mistakes?—He is not only responsible but pecuniarily liable, that is to say, he indemnifies the State for any loss—a different position, I submit, from that of any Civil servant.

51,900. You could have what is called a test audit, not a complete audit, such as they have in the revenue departments?—We could have a test audit, but that would not discover the particular defalcation or mistake. The point is how you are to fix any individual clerk with liability for his own mistake.

51,901. If there is a defalcation, at the present moment the registrar is responsible. If he did not appoint his own clerks nobody would be responsible. Is that what it comes to?—Nobody would be responsible, and if you wanted to fix anybody with responsibility or to find out who was a careless clerk you must audit right up to the hilt, and do everything.

51,902. Then the Post Office and the Revenue Department system would seem to be very weak because that comes to exactly the same thing as the County Court system would be if the registrar did not appoint his own clerks?—I am sorry my knowledge is so limited. I do not know what they do.

51,903. (Mr. Philip Snowden.) With regard to Civil servants making good deficiencies caused through their mistakes, is it not a fact that the established postal servants have to make good all their deficiencies in their accounts and receipts?—If you know that that is

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so I certainly will accept it from you. I do not know anything about it.

51,904. (*Chairman.*) As regards the liability of postal servants to make good any deficiencies in the cash or values under their charge, is it not necessary to qualify that statement by saying that that obligation is only within certain limits and subject to certain conditions?—I am quite willing to accept that from you. I am afraid I do not know anything about it.

51,905. (*Mr. Graham Wallas.*) With regard to the Report of the Committee of 1900, and the difficulty of estimating what it came to, is it not the case that the Chairman of the Committee, Sir David Brynmor Jones, in his memorandum on page 28, said: "I ought to add that in my opinion it would be expedient to place all the clerks and officers permanently employed as whole-timers in County Courts upon a pensionable basis." Do you remember that passage?—Is not that in the nature of a rider to the Report?

Mr. A. HEMMONS, Mr. F. W. CROSS, Mr. E. H. WADE, Mr. W. BURGESS, representing the Association of County Court Clerks and Officers, called and examined.

51,908. (*Chairman to Mr. Hemmons.*) You are employed in the office of the County Court of Bristol?—Yes, in the Registrar's Department.

51,909. What is your position in the office?—I am the third clerk with 41 years' service.

51,910. May I ask what your age is?—I am 58 next June—57 now.

51,911. You appear as representing the County Court Clerks and Officers Association?—Yes.

51,912. What is the present relation of that association to the County Court Officials Association?—They are practically amalgamated now.

51,913. Are we to take your evidence as representing both associations?—There may be some points of difference. We have an official here in the "under 6,000 plaint courts," and he would be better able to answer than I could; but practically the work is the same in both classes of courts.

51,914. What is the County Court Clerks and Officers Association; of whom does it consist?—Bailiffs and clerks originally in the over 6,000 plaint courts; now it includes all.

51,915. What is the number of your members?—Probably between 600 and 700, I should think, without the amalgamation. Now that will be added to. I can hardly tell you what it will be now, because members are joining week by week from the other association, but before that we had between 600 and 700 members.

51,916. (*Mr. Graham Wallas.*) Paying members?—Yes, paying members.

51,917. (*Chairman.*) Will there in future be only the one association?—Only the one association.

51,918. And that will be called the County Court Clerks and Officers Association?—That is so.

51,919. Practically the other association will be merged in yours?—Yes, the other will cease to exist.

51,920. Before the amalgamation of the two, you had a membership of 600 and 700?—Yes.

51,921. Can you tell me what the membership of the County Courts Officials Association was?—(*Mr. Wade.*) Our secretary is at the war, unfortunately, and we could not get the details, but I believe it was between 500 and 600, as near as I remember.

51,922. (*To Mr. Hemmons.*) What is the total number of officers in the classes you represent?—We are only able to guess that. We should say that the total would be about 2,500, but that is only an estimate. We have no means of gauging the total number of clerks and officers in the whole of the County Courts in England.

51,923. That would be including all persons employed in the High Bailiff's Department as well as in the Registrar's Department?—Yes.

51,924. Would the number not be larger than that; there are a little over 500 courts in all?—About 490 courts.

51,925. We have been told that there are 493 courts, and 68 branch courts, making altogether 561?—That

51,906. It is in the nature of an addendum to the Report, giving his opinion?—I have read that.

51,907. So probably it was not the opinion of his colleagues. On the other hand, although the whole thing is not very clear, the body of the Report itself said on page 23, "If we had to make a distinction in favour of the clerks, &c., in one court as against the other, we should feel bound to draw the line in favour of the Gloucester Court, on the ground suggested by Mr. Chalmers, that where you have an establishment of men all exclusively engaged in public employment *prima facie*, they should be placed on a Civil Service basis." So, apparently, the majority of the committee considered that that argument was hypothetically valid; the chairman said that it was actually valid in the particular case?—The Commissioners have the Report before them. I suppose they will put their own construction on it. I am afraid I cannot give any opinion about it.

would be an average of five officers to a court if the number was 2,500, which is our estimate.

51,926. Do you also represent the subordinate staff of ushers, messengers, and so forth?—No, we have not included ushers and messengers in our association—only bailiffs and clerks.

51,927. For what class of officers do you specially speak?—The clerks.

51,928. For the clerks in courts of all sizes or particularly in the larger courts?—Particularly in the larger courts.

51,929. Will you tell us briefly first what are the points you wish to put before the Commission on behalf of those clerks?—First there is no system of rises possible under the present system and no superannuation. The present system is payment by a lump sum. That does not allow of any rise to a clerk, because the whole of the amount allowed by the Treasury is allocated at once, and the registrar or high bailiff has to see that that amount is paid out to his clerks, and he has to show the receipts for that amount to the Treasury, so that there can be no rise to any clerk until that lump sum is increased. A clerk may be there five or six years without that lump sum being increased, because the number of plaints may remain constant and there would be no increased sum granted to the court until the work of the court justified an increase of "clerk hire."

51,930. Is the registrar required to expend the whole of the sum allowed for the clerks?—I believe he has to hand back any amount he does not expend—so we understand.

51,931. Subject to handing back any amount he does not expend, he is not obliged to spend the whole of it?—He has to show the receipts of the clerks for the whole amount of "clerk hire." The receipts are sent to the Treasury.

51,932. Supposing one of the senior clerks—one of the higher paid clerks—were to retire and a new one was appointed at the bottom of the scale, it does not necessarily follow that the registrar need distribute the whole of the saving resulting from that over the other clerks. Could he not keep some in reserve for subsequent increase of pay?—I have never known that done. May I give an instance of what happened in our court: The chief clerk died about 15 years ago, and an application was sent to the Treasury to appoint a new man in his place. The Treasury replied, that as the number of plaints had fallen off they could not grant it, and they only granted 40% out of 350% to a junior. None of the other clerks had any rise at all. I cannot say they were looking forward to his death, but that was the only means they had of having a rise in their salary, and that was taken away from them in consequence of the falling off of the work.

51,933. The falling off of the work resulted in a reduction?—A reduction of the lump sum for clerk hire.

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51,934. Did not the falling off of the work permit of a reduction in the number of clerks?—It would have meant discharging some of the clerks otherwise.

51,935. Or not filling a vacancy?—Reducing the salaries of some of the present clerks and giving it to others, or not filling the vacancy. If we had not filled the vacancy, it would have been only a saving of 40*l.* to be distributed amongst 15 clerks, as they only allowed 40*l.* instead of the 350*l.* previously taken by the chief clerk.

51,936. Had there been a substantial reduction in the amount of business?—Yes, I dare say there was a reduction of 3,000 or 4,000 plaintiffs in a total of 25,000. We ran from 25,000 down to 21,000 perhaps.*

51,937. That is to say, a reduction of about one-eighth?—Yes, about that.

51,938. Would not a reduction of one-eighth in the work permit of some reduction in the numbers of the staff of 15 or 16 clerks?—It would, but not as much as appears on the surface, because 10,000 plaintiffs can be worked by far less than double the number of staff that 5,000 plaintiffs can be. As the work increases you do not require to increase your clerks in proportion. One clerk might have been dispensed with, but ours is a very fluctuating court and the number of plaintiffs might have gone up again the following year.

51,939. Is not the variation in the lump sum which is allowed intended rather to provide for variation in the number of clerks required for dealing with different quantities of work; whereas the point, as you represent it, is that the reduction of the lump sum resulting from reduction of work was applied, not in reducing the number of clerks, but in reducing the remuneration of the fixed number already employed?—Yes; the effect was intentionally to reduce the total remuneration because a smaller staff would be required, but the result was that one clerk was done away with practically and the other clerks had no increase at all. The only opportunity we get of an increase is when a man dies or when the number of plaintiffs goes up.

51,940. If there had been a reduction of two clerks there might have been an opportunity of some increase in the remuneration of those that remained?—Yes. If two clerks had died we might have saved the salary of one.

51,941. And some increase of remuneration would have accrued to the others?—Since that time we have had part of that amount which was taken away returned to us, the number of plaintiffs having gone up.

51,942. The lump sum has now been increased?—Yes, we gradually got the amount back.

51,943. Has the number of the staff increased or remained constant?—That remains fairly constant; but in one year we may be up to 17,000 plaintiffs, the next year go down to 16,000, and another year up to 19,000; we are up and down all the time. The Bristol Court is in an industrial district and I think it is due to that.

51,944. Your point is that there is no increasing scale of pay for the clerks and that the clerks are on fixed pay and have no opportunity of increasing that pay if the total sum allowed for clerk hire remains constant or is reduced?—There is absolutely no increase in pay possible.

51,945. Except so far as that increase is caused by vacancies at the top and the others moving upwards?—Yes, or an increase of the work, and then the registrar would apply for an increased lump sum.

51,946. In the Bristol Court has the registrar private business of his own?—We have two registrars with one salary. One has private work, the other has not.

51,947. Two registrars with one salary?—Yes. The salary of the registrar in over 6,000 plaintiffs courts is 700*l.* a year, and he is also paid by fees. The fees in our court run to between 1,900*l.* and 2,200*l.*, say, roughly, 2,000*l.*; this amount and the 700*l.* constitute the remuneration of the two registrars, less what they hand us over for our share of the fees.

51,948. What proportion of those fees is handed over to the clerks?—Up till last year we had 225*l.* handed over as our proportion. I have the exact figures here.

51,949. Have you got a statement of the salaries of the clerks at Bristol?—Yes, a statement as to salaries, ages, length of service, and their share of fees.

51,950. Will you hand that in?—Yes. (*Handing in the statement.*) In 1912 the total remuneration of the registrars, including the 700*l.* salary, was 2,254*l.* after they had paid the clerks 225*l.* In 1913 the total remuneration to the registrars was 2,125*l.*, after they had paid the clerks 225*l.*; but in 1914 the total remuneration to the registrars was only 1,797*l.*, after they had paid the clerks 425*l.* The share to the clerks was increased by 200*l.*, because the lump sum for clerk hire had been reduced by the Treasury by 200*l.*, and the registrars had to make it up out of their fees; the clerks were not to suffer, we understand.

51,951. In fact it was made up out of the fees?—Yes, it was made up out of the fees and the clerks have not suffered in that case.

51,952. From what class of business are those fees derived?—Fees from Workmen's Compensation, Bankruptcy, High Court Registry, Equity cases, Admiralty cases, and fees under Schedule "B." Those are the chief sources of the fees.

51,953. You say one of the registrars has private business of his own?—Yes.

51,954. How many clerks does he employ in that business?—He has one boy, and his son, who is also a solicitor.

51,955. Then it is a small business?—Yes.

51,956. He does not employ any considerable body of clerks in it?—Now he has one girl typist in addition. He has no considerable body of clerks.

51,957. Have you any knowledge of the salaries paid by solicitors in Bristol who employ a large staff?—No, I have not. As a rule, solicitors' clerks are not very well paid in Bristol. I do not know whether they are well paid in other places.

51,958. Can you make any comparison between the remuneration by salary and fees which the clerks in the County Courts receive and the remuneration which solicitors' clerks receive?—In the office of a good solicitor who has a large practice, I should say there was a very much better chance for a clerk than there would be in the Bristol County Court.

51,959. What would be the largest salary paid to a managing clerk by a solicitor in Bristol?—In London 400*l.*, 500*l.*, or 600*l.* managing clerks would be entitled to.

51,960. But I am speaking of Bristol?—In Bristol it would be 300*l.* or 400*l.* I do not suppose many men in Bristol would get over 300*l.*, but I submit that our salaries should not be compared with those of solicitors' clerks. Our work is very much more responsible than the work of solicitors' clerks. We are doing a public service; we are attending to the public, and we have no market value outside the County Court. A solicitor's clerk can take his labour from one office to another. We cannot take our labour from one office to another.

51,961. Do you consider that your work is more difficult or requires higher mental qualities than that of a solicitor's managing clerk?—I think it requires a more varied experience than a solicitor's managing clerk.

51,962. Would you say that?—I have hardly enough acquaintance with the work of a solicitor's managing clerk to be able to say, but I know they very often come to me for advice in County Court work, as also do solicitors; but that is, of course, only one department of the law.

51,963. On questions of procedure?—Yes, on questions of procedure.

51,964. Would not the difference be this, that your work is concerned with the procedure and forms of the Court, and that their work is concerned largely with the substance of the cases with which they deal?—That is so, I should think.

51,965. And would not the substance of cases be matter that would involve a good deal wider knowledge and experience, extending over substantial law as well as formal law, as compared with yours?—I think it is necessary, in order that the work of a County Court clerk

* My figures were given from memory. The actual figures, I find, are 21,431 to 17,850, which would be a reduction of one-sixth.—A. H.

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be carried out efficiently, that he should have quite as much intelligence when he gets on the top rung of the ladder of the County Court as a solicitor's managing clerk. I have here a list of the varied work that a County Court clerk has to do. He starts with the issue of default, ordinary, bill of exchange, ejectment, possession, interpleader, and garnishee summonses, process under Tithe Act, notice to respondent, distraint, and receiver; process under Workmen's Compensation Act, which is quite a study in itself; filing and recording of agreements for declaration of liability, weekly payments and lump sums, in the latter case, assisted by the registrar or the registrar acting with the clerk, deciding as to adequacy of amount and, where workman is an infant or in cases of death, receiving amount into court, issuing notices to respondents upon requests for arbitration, filing answers to same, drawing awards after hearing, taxing costs (the registrars in most courts tax the costs; they do in ours, but in some courts the clerks, I believe, do it), investing amounts in Post Office Savings Bank, paying out quarterly and other sums to dependants; reference to medical referees; transfer of proceedings and investments from one court to another—the amount of investments at end of year in this court (Bristol) were 17,487*l.*, representing 345 accounts; issue of Bankruptcy process—*i.e.*, Bankruptcy notices by creditors, debtors' petitions, creditors' petitions in chambers, public examinations, adjudications and taxing costs, fees paid in stamps, registrars receive 5*l.* each petition, and taxing costs, and a few other fees; also winding-up of companies comes under the Bankruptcy Act; equity claims (fees part to Government and part to registrars), Admiralty claims (fees part to Government and part to registrars); administration requests, notices to creditors, orders to debtors, receiving payments, rescinding cases, declaration of dividends, fees to Treasury, judgment summonses and commitments; entering judgments by default, notice of defence for trial, entering ordinary cases for trial, making up minute book, orders of payment, receiving and paying out money, posting same in ledgers, notices of payments into court, special defences, counter-claims, orders of discovery and interrogatories, orders for substituted service and oral examinations; examining, swearing, and filing affidavits of debt (the clerks swear the affidavits, the registrar allows them afterwards) and deciding causes of actions, affidavits of defence in bills of exchange cases, registering 10*l.* judgments and administration orders; issue of certificates to certified bailiffs and list of same; entry and issue of executions, judgment summonses, and commitments; payment into bank of postal orders, cheques, &c.; keeping clerk's cash-book, balancing ledgers at end of year; making quarterly return of cash accounts for superintendent, ditto registrar and high bailiff's fees; annual returns of workmen's compensation cases, administrations and all process; list of amounts to be forfeited by suitors; filing abstracts of bills of exchange and deeds of arrangement sent from Central Office and taking bonds from trustees. That is very varied work.

51,966. Would a large part of the work that you have enumerated consist in filling up printed forms?—No. For instance, in the case of affidavits for leave to issue out of the jurisdiction, you have to decide yourself whether that claim can be issued in a certain court, and whether there is jurisdiction to issue it.

51,967. Would far the greater bulk of the work which you have enumerated relate to ordinary small debt claims?—Yes. In our court about half the debts are under 2*l.*

51,968. In that case there would be a summons issued, a judgment either by default or after hearing, and an order to pay?—Yes, and the subsequent proceedings afterwards.

51,969. Far the greater part of your work would relate to cases of that kind?—Yes. Those are mostly done by the juniors.

51,970. The work relating to those would consist of filling up the forms, the issuing of the summons, and so on, and the accounting work connected with the receipt of money paid into court, or the instalments

paid upon the judgment, and entering those in the cash book and ledger?—Yes; and something depends upon every entry.

51,971. Naturally. I presume you would not make an entry if nothing depended upon it?—I mean that a registrar may be liable for an action if a shilling is left out of a ledger.

51,972. He is liable for the shilling, I suppose?—No; he is liable for an action to be brought against him for issuing execution where one ought not to be issued. So much depends upon the entry of the work.

51,973. You mean an execution may issue if the sum has not been properly put into the account?—If a sum is not posted.

51,974. But that accounting work is, I should gather, of a simple character?—A good deal of it is of a simple character but requires to be done with great care.

51,975. It requires to be done with care, but is any of it of a complicated character?—Of what I have mentioned here a good deal is complicated.

51,976. But is any of the accounting work complicated?—What you have mentioned is mostly of a simple character. Workmen's compensation work would not be simple.

51,977. Is there any complicated accounting there?—Not accounting work.

51,978. I am speaking of the accounting work now. Is any of the accounting work of at all a complicated character?—Yes, there is a lot of complication in the keeping of accounts.

51,979. What is the nature of the complication?—I am not the accountant myself. We have one whose whole time is almost entirely taken up with accounts.

51,980. That does not necessarily imply complication of accounts; it may be simply the volume of accounting?—There would be a complication in the balancing. They find it difficult very often to balance at the end of a quarter; there are so many different accounts.

51,981. Difficulties in balancing would arise from errors in posting, but that is hardly complication?—And there is the difficulty of finding it out when once made.

51,982. It may be difficult to balance, but it does not imply complication in the account?—Complication would arise from various accounts being lumped together and having to be brought together and balanced.

51,983. You mean, when you bring balances together to make a total balance, you may find a discrepancy?—Yes.

51,984. But the fact that there is a discrepancy may be due to an error in a simple operation, and not to the fact that the operations are complicated?—No, it means that it requires a good accountant to put them together and discover any discrepancy made.

51,985. What proportion of the work of the office consists of accounting work?—We do not keep our accounts separate in that way. There are two cashiers.

51,986. Are certain clerks told off to do the book-keeping?—Yes. There is a receiving cashier and a paying-out cashier, and they have about three assistants. One has one, and the other has two assistants.

51,987. That is five clerks out of 15?—Five clerks receiving and paying out practically entirely.

51,988. Do they do the whole of the book-keeping in connection with their work?—Yes, the whole of the posting and book-keeping. There are, perhaps, about 45,000 entries in the year, largely small entries.

51,989. With regard to the remaining 10 clerks, of what does their work mainly consist?—About three clerks would be issuing process, execution, and judgment summonses; three or four more would be taking down summonses, issuing them, and entering them; and another clerk would be making up the minute books for the court, and making out the orders for payment in.

51,990. That accounts for seven or eight out of the remaining 10?—Another clerk would be drawing up orders in equity cases, workmen's compensation cases, Bankruptcy cases and Admiralty cases, and making

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quarterly returns. There are a large number of returns to be made every quarter. I have to make about five returns myself which take me about a week out of every quarter.

51,991. Taking yourself personally, of what does your work mainly consist?—Of the workmen's compensation process up to the time it goes before the judge. I take down all the agreements, and do most of the workmen's compensation work in the list I read out, including deciding as to the adequacy of the amount and receiving the money into court. Drawing awards after hearing does not come into my work. I issue all the default summonses. We issue about 8,000 or 9,000 in a normal year in Bristol. My figures are all pre-war figures.

51,992. You mean that you fill up the form and hand the summons over to the Bailiffs' Department to execute?—No, I take down the instructions and swear the affidavits, decide as to the causes of action, and whether there is any cause of action.

51,993. You take down from a personal applicant the cause of action?—Yes. A person comes in and says "I want to issue a summons; the defendant lives out of the district," and I have to give him an affidavit form to fill up, and when filled up, I have to decide whether that affidavit will bring it within our jurisdiction. The causes of action are very complicated.

51,994. Are there any other questions you have to examine into, apart from the question of whether it is within the jurisdiction?—There is the question whether he can issue it as a default summons at all. No action for damages or tort can be so issued. You cannot issue a default summons against an administrator or an executor of an estate, and you have to be careful to see that you issue a summons in the proper way.

51,995. Having decided those points you fill up the summons and hand it over?—I only enter the summons; another clerk makes it out.

51,996. You enter the summonses in what?—In the plaint-book. I give them to another clerk to make out, and he makes them out, and I examine them to see that they are carefully made out. A junior clerk makes them out, and that is simple work. Also the Tithe summonses I have to deal with, and any orders for discovery or interrogatories or substituted service.

51,997. A committee sat in 1900 on certain questions connected with the County Courts, of which committee Sir David Brynmor Jones was chairman?—A gentleman in our office, Mr. Price, represented the association on the committee.

51,998. Have you ever seen the report of that committee?—We have never seen the report. We have had a letter from Mr. Liddell telling us what the report of the committee of 1900 was.

51,999. I will read to you a passage from that report which describes the work of the County Court clerk, and ask you if you think that a fair description or not: "We cannot wholly agree with Mr. Grimsdall's characterisation of the work of the clerks, etc., as 'being highly skilled labour in the sense of being work that requires any very great special training, expert knowledge, or ability above the average. Speaking broadly, the work is of a very specialised routine character. Unlike the work of those clerks in solicitors' offices who are not merely keeping books, but doing the necessarily varied work of such an establishment, it resembles rather the work of a bank clerk. No knowledge of law is requisite for most of the work that is performed by the ordinary county court clerk, though of course it is greatly to the advantage of the suitor in person that there should be at any rate one man in the office to whom he can appeal for aid in drawing his particulars of demand, and occasionally in regard to other matters. What, over and above the qualities of a good clerk, the ordinary County Court officer requires is good temper, the capacity of doing dull and monotonous work with patience, and the faculty of being courteous in dealing with illiterate and sometimes rough and irritable persons." That is qualified afterwards by saying that where the registrar does very little of the work personally, then the senior clerk has to do the work that properly belongs to the registrar. What do you say as

regards that description of the work?—I should say it is not a fair description. In Bristol two gentlemen of middle age were appointed some time back; they did not start at the bottom as juniors and work up. They were both such failures that the registrar said, "I will never do it again." They never were able to grasp the work.

52,000. Where did they come from?—Both were accountants. One was made a cashier, and it was thought advisable that he should be brought in instead of any other clerks being promoted in the office, and the registrar acknowledged him to be a failure.

52,001. Then you think that that report understates the qualifications required?—Quite understates the case. I think if you ask any solicitor, or solicitor's clerk who practises in the County Court, he will tell you that the work is very complicated, and requires a legal mind to carry it out efficiently when you get up into the higher class of work.

52,002. You mentioned also the question of pension. Will you explain your views on that point, and the ground on which you think the County Court clerks ought to be made pensionable?—In Bristol we have now five clerks and officers who are over the age of 65. You have a statement of the ages of our clerks.

52,003. I see in the statement submitted by your association to us, a list of County Court clerks and bailiffs who have had long service, and in that list there appear in the registrar's department to be only ten who are over 65?—That list you have in our printed statement is as regards length of service, not as regards age. It does not include all those over 65 years of age.

52,004. I was puzzled by there being so few?—It is a statement as regards length of service, and as to those who have served over 40 years.

52,005. Have you a statement of the total number of clerks now serving who are over 65 years of age?—No, not compiled. There are five in the Bristol court. The chief clerk is 75, and he is now lying ill in bed. The last clerk who died was 84, and he worked up till within three weeks of his death.

52,006. Was he efficient up to the time of his death?—No, he had to be put to simple copying work.

52,007. You suggest that difficulty arises from the fact that, there being no pension system, clerks go on when they are past their work?—Yes, the registrars are not hard-hearted enough to discharge them because they become inefficient, so they are allowed to go on with their duties.

52,008. Is it practically always the case that clerks are allowed to go on even when they are past their duties?—There are some cases, I expect, in which they are discharged through old age. I could not give you instances. Mr. Cross will be able, I think, to give you the number over the age of 65. I think most registrars and high bailiffs would not care to discharge their clerks when they become old. The public service suffers and promotion is slow in consequence.

52,009. How is that difficulty met in the case of clerks in the employment of private solicitors?—I do not know what becomes of them. There is no scheme of superannuation in their case, of course; but there are clerks, I believe, who are kept on until a great age through the kindness of solicitors and are paid their salaries.

52,010. Does not the same difficulty arise there?—Yes, the same difficulty arises, but that is a private service.

52,011. Your first point is the difficulty as regards the retirement of clerks who are of an advanced age?—Yes, and the slowness of promotion.

52,012. Your second point is the slowness of promotion?—Yes, and the third point is that extra work falls upon the other clerks who do the work of the clerk who becomes old and inefficient. The public will come to a man and say: "It is no good going to him; I cannot get any clear information out of him; he has got past it"; and another man will have more work thrown upon him in consequence.

52,013. That is all part of the inconvenience arising from men remaining on after they are past their work?—That is so.

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52,014. What are the reasons you put forward for saying that that difficulty ought to be remedied by making the clerks pensionable?—Our arguments are these: That there is hardly a bank, or an insurance company, or a railway company, or any public corporation now, that does not make some provision for its aged officials—I know of none.

52,015. Is it not the case that in most of the employments you mention there are contributory pension schemes?—In some cases they are contributory, in others not.

52,016. Taking the case of railways, are not the superannuation schemes, as a rule, contributory?—I believe the railway superannuation schemes are contributory.

52,017. In a great many of the large private concerns, where they have pension schemes working, is it not the case that they are contributory?—A great many are not; a good many are.

52,018. Which have you in mind which are not contributory?—I have a son with the Imperial Tobacco Company, and I know they have a pension scheme, and there is no contribution for pensions in their case.

52,019. Do you know of any others?—I do not think either insurance companies or banks have any contributory schemes. I could not say for certain.

52,020. Have you ever considered the question of a contributory scheme for the County Court staff?—We say that the salaries which are fixed by the Government are considered in the Civil Service to allow for the pensions. The contributions to pensions are supposed to be deducted from salaries; they fix the salary, and at the same time they fix the contribution. It is not for us to say what our salaries should be.

52,021. But your salaries have been fixed on a system which is not pensionable?—Or on an absence of a system.

52,022. They have, therefore, been fixed presumably in consideration of the fact that you have not any pensions?—But we have no fixed scale of salaries. No clerk can say what salary he is going to get in any County Court.

52,023. You can say what salary he is getting?—That is all.

52,024. And that salary has been fixed on the understanding that he does not get a pension?—Yes. We, of course, know that there is no pension when we join the service.

52,025. Your argument, as I understand it, is, that because in the Civil Service there are pensions on a non-contributory basis, therefore in your service there should be pensions on a non-contributory basis?—That is so. My argument is that if the Government were to take us over now as Civil servants, they would start by fixing a scale of salaries, and that scale of salaries would presuppose pensions. We understand that in the Civil Service the salary is paid presupposing a deduction from that salary for pension.

52,026. In the case of pensionable officers, yes?—Yes, the salaries are fixed with a view to pensions. That is how, we say, our salaries should be fixed.

52,027. Are you aware that, as a rule, when an unestablished officer is appointed to an established post, he is appointed at a lower salary than he was receiving as an unestablished officer, in consideration of the fact that he then becomes pensionable?—I was not aware of that. I dare say it is so.

52,028. In any case of salaries that have been fixed on a non-pensionable system, it would not be unreasonable to say that some modification would be required if the system were changed into a pensionable one?—There would be no objection, I think, if salaries were put upon a proper scale, and then a deduction made for pensions. You have a list of the salaries paid to the clerks in the Bristol County Court. There is a junior clerk in the high bailiff's office, who has done nine years' service, and who is 26 years of age, and is getting 14s. a week. Would you suggest that there could be any possible deduction from that for pension?

52,029. Is he a whole-time officer?—Yes.

52,030. (*Mr. Philip Snowden.*) Is that in Bristol?—In Bristol—14s. a week.

52,031. (*Chairman.*) What is his work?—He is a junior clerk in the high bailiff's office. My brother is the chief clerk in that office. That junior clerk gets 8l. a year in addition as his share of the fees from the high bailiff, but that only makes it about 17s. a week after nine years' service. He has applied to the Treasury for an increase, and been refused. The high bailiff was the son of the judge at Bristol, and the judge himself wrote up to the Treasury on his behalf, and was refused an increase.

52,032. That is to say, I suppose, that the high bailiff applied for an increase to his allowance?—An increase really of the lump sum for clerk hire in his office, and he was told that the lump sum was sufficient. That is to say, that the lump sum principle again precluded any increase to that clerk, and if he is there another five or ten years it may be the same thing.

52,033. (*Mr. Coward.*) Because he is doing the work of a boy?—Unfortunately, he is growing up into a man.

52,034. (*Chairman.*) Is he doing the same work as he was doing as a boy?—Yes, it is work that has to be done, and he is prepared to do it, and his knowledge now is sufficient for him to take the second clerk's place.

52,035. Would you say that although the work remains the same, and is work which can be done by a boy, nevertheless he ought to have an increasing salary?—Yes, his knowledge of the work has gradually increased, and he is fit to take the next post.

52,036. But he is not doing the work of the next post, because the next post is not vacant?—That is so. If he were a clerk in the Civil Service, his salary would have gone on rising, although he was doing a junior clerk's work.

52,037. To go back to the question of pensions, I should like to ask again the question I put before. What reason is there why a contributory system should not be instituted? You replied that you would prefer a system which was non-contributory, and which gave the pensions without a contribution. That I can understand, but supposing that was not available, is there any reason why a contributory system should not be instituted?—We should be pleased to have a contributory system put before us.

52,038. Was not there a deputation to the Secretary of the Treasury, Mr. Hobhouse, some years ago when that question was discussed?—I have been before Mr. Hobhouse on one occasion, and his suggestion was, I think, a contributory scheme, to which the Government would add something. It was really practically a scheme among ourselves, which the Government would subsidise.

52,039. Was any action taken on that suggestion?—No, nothing at all.

52,040. Why not?—It was his own suggestion and it fell through, and nothing more was done with it or heard of it.

52,041. As the result of an interview with the Secretary to the Treasury, you had a suggestion that a contributory scheme should be formulated and some hope held out, at any rate, that the Government would assist a scheme of that kind. Did not you pursue the matter at all?—One reason why it fell through was that he asked us to obtain the figures from different courts in the country of the ages and wages, and we were unable to do so, and we cannot do so now.

52,042. If the clerks in all the courts knew that you were working towards a pension scheme, would not they be prepared to furnish the particulars necessary for formulating it?—I do not think they would, because some of them have asked their registrars if they may disclose the list of wages in their courts, and they have been refused.

52,043. That would seem to suggest that your association does not fully command the confidence of all the clerks throughout the country. If it did, would not they be prepared to furnish you with the particulars necessary for formulating a statement?—They will not go against their registrars and high bailiffs. The registrars and high bailiffs will stop them from giving the information.

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52,044. Would not the registrars and high bailiffs welcome a pension scheme for the clerks?—I think the registrars and high bailiffs are in favour of our becoming Civil servants.

52,045. But supposing there was a question of a contributory pension scheme, would not they be in favour of a scheme which was likely to benefit their staff?—I do not know their opinions upon that point. I have never sounded them, but they may be favourable to it. It would take off some of the responsibility of keeping on an old man in their employ.

52,046. But, in fact, that suggestion for a contributory scheme was not pursued, because you were unable to obtain the necessary particulars about the ages and pay of the clerks?—I think that was the reason it fell through at that time.

52,047. Have you any expectation that it could be pursued with greater success at the present time?—I cannot say that our association is favourably disposed towards a contribution scheme. We say that that is a matter to be left in the hands of the Treasury or the Government; that they should decide the salaries, and at the same time decide the pension.

52,048. I understand you would prefer a non-contributory scheme; but supposing a non-contributory scheme was not available, would you consider a contributory scheme better than nothing?—On the principle that half a loaf is better than no bread; but that does not give us security of tenure, does it?

52,049. Before leaving the question of pensions, in the paper which you have furnished to the Commission I see you mention that the officers in the City of London Court get superannuation?—They do.

52,050. Is that a contributory scheme?—I understand that is a contributory scheme, but it is a contributory scheme out of the classification system that they have there. The third class clerks start at 20s. a week, and know they are going to rise by 5l. a year to 200l. The second class clerks start at 200l. and rise by 10l. to 300l., and the first class clerks get 300l. and rise by 10l. up to 400l., and one principal clerk goes up to 450l.; so there are salaries in the City of London Court out of which pensions can be contributed. If there are salaries in County Courts to stand a contribution, they would have to be classified in the same way, and then I can see no objection to it.

52,051. Do you know what the basis of the scheme in the City of London Court is?—(Mr. Wade.) It is 2½ per cent. of the salary.

52,052. Is a contribution made by the Corporation?—A contribution is made by the Corporation, but the officers contribute 2½ per cent. of their salary.

52,053. But does the Corporation make any corresponding contribution?—They pay the pensions.

52,054. Are the pensions provided entirely out of the proceeds of the 2½ per cent. contribution?—I should not say so. I do not know.

52,055. You do not know if the Corporation has to make it up?—I do not know.

52,056. (To Mr. Hemmons.) Coming to the question of security of tenure, what is your representation on that point?—There is the case of a new master getting a new man. A new registrar or new high bailiff may appoint a new man if he wishes to, and may discharge the old one, and, I believe, it is done.

52,057. What is the usual practice in such a case? Does the new registrar keep on the old staff or not?—As a rule, I should say, the new registrar and the new high bailiff would keep on the old staff, but he may possibly have some one he may wish to put in.

52,058. He would have considerable difficulty if he started with an entirely new staff?—Yes, he would.

52,059. Have you ever known a case in which the old staff was dismissed on a change of registrar?—We have a case in the High Bailiff's Department. (Mr. Cross.) There was a recent case in the High Bailiff's Department in Birkenhead where the registrar, on the death of the high bailiff, became high bailiff, and he dismissed the whole of the staff of the High Bailiff's Office. He gave them all 14 days' notice, and then took back those men he wished.

52,060. Of how many did the staff consist?—Six or seven, I think. The chief man was dismissed altogether after 35 years' service.

52,061. How many did he take back?—Two, I think, joined the Army, and then, I think, he took back three. Of course, the work had gone down at that time on account of the war.

52,062. So the number actually dismissed and who did not join the Army was one or two?—Yes; but they were all dismissed for the time being. He only took them back if he so pleased.

52,063. But, as a matter of fact, he did take most of them back?—Quite so, but not the one with 35 years' service.

52,064. Was he the senior on the staff?—The senior bailiff.

52,065. And he was fully efficient?—Yes.

52,066. What became of him? Did he get other work?—I think he was out of employment for two months, and then he got some employment in the Post Office as a letter carrier, or something of that kind, but not at anything like the wages he had had.

52,067. Have you known any similar case in a registrar's office where the staff were dismissed on a change of registrar?—Not the whole of the staff, but there have been cases of individuals.

52,068. Was that on account of some objection to the individual, or on account of age? Was it a man who was past his work who was dismissed by a new registrar?—Yes. (Mr. Hemmons.) And there have been some cases where the registrar had a friend he wished to put in. (Mr. Cross.) There was one case where the registrar dismissed the chief clerk and brought in the judge's clerk and appointed him chief clerk. He knew nothing at all about the work, and of course precluded the others from any chance of an increase in salary or position.

52,069. Do I gather that those cases are quite exceptional?—Yes, they are.

52,070. (To Mr. Hemmons.) To go back to the question of pension, the staff of courts with more than 6,000 plaintiffs are a whole-time staff?—Yes.

52,071. In courts with less than 6,000 plaintiffs they are not necessarily whole-timers, and in many cases not actually whole-timers?—The greater proportion are whole-timers.

52,072. Have you any figures as to the proportion?—(Mr. Wade.) I am in an under 6,000 plaintiff court and there are 170 courts which issue less than 500 summonses a year. There is no question that the whole of those would be part-timers. Then there are about 250 courts with between 500 and 5,000 plaintiffs, and the majority of the staff of those would be whole-timers, but we cannot say how many; probably about 1,000 would be whole-time officials.

52,073. (To Mr. Hemmons.) How would you propose to deal with the case of those who are not whole-time officials?—You might increase the number of the whole-timers by amalgamating some of the smaller courts.

52,074. It is a question whether that would be possible or not. Assuming that that could be not done?—I suppose there are no half-timers in the Civil Service. I do not know whether there are any.

52,075. I do not think there are any that are pensionable?—But the fact of half-timers not being pensionable should not preclude the whole-timers being pensioned if they deserve it.

52,076. Then your suggestion is that at any rate all those who are whole-timers should be made pensionable?—Yes.

52,077. On the last page of the statement handed in there is the third paragraph which states that "The County Court officials, by an alteration in the words of the last County Court Act, after an assurance by the Treasury that no alteration in their status would be made, were astounded to find that their position as Government servants was interfered with"?—Yes, that was when they started the lump-sum payment for clerk hire. I was appointed before 1889, and by name. All officers were appointed by name by the Treasury at a rising salary from 40l. to 60l. I was.

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52,078. We have had it in evidence this morning from Mr. Bridgeman, the Superintendent of County Courts, that that point was raised at a deputation to Mr. Austen Chamberlain when Chancellor of the Exchequer some years ago, and was completely withdrawn?—That the status had been altered?

52,079. The statement was withdrawn that there had been a breach of faith on the part of the Treasury resulting in an alteration of status. Are you aware of that?—(Mr. Cross.) I do not think I have ever heard of it.

52,080. Were any of you gentlemen present at that deputation to Mr. Austen Chamberlain?—No.

52,081. You are not familiar with the proceedings at that deputation?—(Mr. Cross.) No. The answer is that so far as I know our old printed statement, if you refer to that, said that the Treasury stated that a mistake had been made by the officials, but we cannot give any evidence with regard to that at all.

52,082. You have no evidence with regard to that?—No, we have a copy of the letter from Mr. Nicol, the then Superintendent of County Courts.

52,083. A letter to whom?—To our then president.

52,084. On this point?—Yes. It said: "In answer to your letter I beg to inform you that no amendment will be made in the County Courts Consolidation Bill altering the status or position of the clerks employed by the registrars."

52,085. But you contend that an alteration was made by the County Courts Bill?—Yes.

52,086. What alteration?—The lump sum was introduced then. Before that clerks were appointed individually by name. After that Act of 1888 that ceased.

52,087. What words in the Act do you contend made that alteration in your position?—(Mr. Wade.) Section 45 deals with the question of the salaries and the lump sum paid as allowance for clerk hire.

52,088. That Section 45 is the section which states the scale of salary for registrars?—(Mr. Cross.) The original receipt given by the clerks bore these words: The registrar had to declare on his honour that he had not employed any of the clerks or bailiffs "whose salaries are paid by Government." Those are the words of the receipt that we gave before that time, but those receipts have been altered. The words "paid by Government" are no longer in the form of receipt.

52,089. That is not an explanation of the words of the Act?—No, but I think it is based on an alteration of the Act. I am afraid we did not quite anticipate this question.

52,090. It is rather a serious allegation to make, unless you are prepared fully to support it, that there was a breach of faith on the part of the Treasury. You are not prepared to develop that in detail or support it?—If you will allow it to stand over for a few moments I will see. If you go back to 9 and 10 Victoria, chapter 35, and following on that the sections of the Act of 19 and 20 Victoria, it says it shall be lawful for the Commissioners of Her Majesty's Treasury to order that all the officers of the said courts or any of them shall be paid by salaries instead of fees. By Section 14 of the same Act the maximum salary of a clerk was increased to 700*l.* a year. No mention was made in this Act of assistant clerks or bailiffs. In the year 1856, 19 and 20 Victoria came into force. I am reading from an old printed statement of our County Court Association.

52,091. Is it not the case that at that time the term "clerk" was used for what is now called "registrar"?—In the original Act, but there were assistant clerks named.

52,092. At that time a registrar's district consisted of several courts, did it not?—"Assistant clerks" mean the registrar's clerks.

52,093. Did not the assistant clerk mean the assistant registrar who was in charge of one of the additional courts which were in the district of the registrar?—I am afraid I cannot go so far as that. I do not know. (Mr. Hemmons.) I take it it meant his staff in his office—his assistant clerk.

52,094. I think you will find "assistant clerk" there is distinctly used as meaning "assistant registrar"?—(Mr. Cross.) Section 82 of the Act of 19 and

20 Victoria says that all registrars of the larger courts were to be paid salaries, which were to be fixed by the Treasury, not exceeding 700*l.* This section also provided that in the courts issuing 6,000 plaints, the amount of the salaries of the clerks previously termed "assistant clerks," and the number of the clerks should be sanctioned and approved by the Lords Commissioners of Her Majesty's Treasury. That was the position. The number of the clerks was to be sanctioned and approved by the Lords Commissioners of the Treasury. That is the position we originally held which we say is altered by the Act of 1888. (Mr. Hemmons.) Every clerk was appointed by name. (Mr. Burgess.) I may say I was in the habit of getting my salary before 1888 as assistant clerk, but I had to give a receipt for my salary to the registrar.

52,095. You gave a receipt for your salary?—I gave the receipt—"Received of the registrar of the court." Before that I gave it as "Assistant clerk, which appeared in my receipt."

52,096. You gave your receipt to the registrar?—With those words: "Assistant clerk."

52,097. You were appointed by the registrar?—Yes, and sanctioned by the Treasury by name. (Mr. Hemmons.) I was appointed by the Treasury by name. (Mr. Burgess.) And in all the increases of salary I received before 1888 my name was mentioned. (Mr. Hemmons.) I sent up the first receipt in full: "Alfred Augustus Hemmons," and it was sent back, saying: "You were appointed as Alfred Hemmons only." Now the Treasury do not appoint clerks.

52,098. If you wish to develop that point, you had better submit a written statement saying what you mean by the alteration in the status?—Yes.

52,099. (Mr. Boutwood.) In connection with a contributory scheme, do not you see a difficulty in applying a contributory scheme to a staff that already has a good many years' service. For instance, you have had 41 years' service: How would you deal with a contributory scheme in your own case?—I should take it, first of all, that I should be put upon a scale of salary equivalent to a scale of salary in another Government office that already had pensioned officials.

52,100. Yes, but you have had 41 years' service, and you cannot live for ever, and any contributions which you might make in the years of efficient service which are probably before you, would not amount to a very big pension. It is not as if you were starting at 20?—What we hold is that, of course, we ought to have been Government pensioned officials from the first, as we have been doing work in the public service that should have been pensioned work, and, therefore, all back service ought to count.

52,101. And back contributions ought to count at that rate?—We say more than back contributions have been taken away from us by our having inadequate salaries.

52,102. (Mr. Philip Snowden.) What is your present salary?—240*l.* a year, and 55*l.* from the registrar as share of fees.

52,103. And you are not on a scale, I take it?—On no scale. I do not know whether I shall ever get any more.

52,104. Is there any such thing as a sort of unofficial scale as applied to County Court clerks?—I have never heard of one. In no two courts hardly are there the same conditions even where they are of equal size.

52,105. Are you liable to a week or a fortnight or a month's notice?—I should say it would have to be a quarter's notice, as I am paid quarterly.

52,106. Although you say you were appointed by the Treasury, would the registrar have power to dismiss you?—I have been appointed by the Treasury before 1889, and I should hold that he would have no power to dismiss me, as I was a Treasury appointment.

52,107. Have you known men dismissed who were appointed under similar conditions to yourself?—I know of one clerk who was appointed before, and there were defalcations in his accounts, and the registrar wrote up to the Treasury about it. He simply suspended him before that, but did not dismiss him himself.

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52,108. In your office is there any recognised rule as to the promotion of clerks?—As a rule it is by seniority unless a man proves himself incapable of being promoted. I have never known one put over the head of another, although, as I said just now, I have known outsiders brought in.

52,109. That leads to another point. Have you known any registrars using their powers in order to appoint family relations?—That, I think, we gave an instance of just now—a registrar putting in a relation or friend.

52,110. Does that practice obtain to any considerable extent, or to such an extent, as to have assumed the form of a scandal?—No, I should not think to a great extent. We only know of isolated cases.

52,111. Does the registrar apply for this lump sum every year?—No. If the number of complaints went down the Treasury would intimate that he must not appoint a fresh clerk without consulting them.

52,112. That is to say, the Treasury do not write down to each registrar every year and say: "We are preparing the Estimates for next year, and would like to know whether you are likely to require the same sum for wages next year as for the past year"?—No.

52,113. Have you known any cases where the registrars have applied to the Treasury for an increase in their lump sum on the ground that the remuneration of their clerks was inadequate?—Yes.

52,114. They do that sometimes?—On the ground that they have been so long without a rise, but not able to give the ground of increase of work.

52,115. Coming back to your own case in regard to that, you say you are the third clerk?—Yes.

52,116. And you began, I understood you to say, at 40*l.* a year?—Yes.

52,117. Have your increments been fairly regular and progressive?—No, it may be 10 years without an increase at all.

52,118. In that case you must have had at times rather a big jump?—The biggest jump I had was 40*l.* once when I was appointed as cashier, but, as a rule, it has been 15*l.* or 20*l.* at the outside.

52,119. What reason had you to say that you thought that the registrars would be in favour of your becoming established Civil servants?—I was thinking in my answer of my own registrar. I spoke to him before I came here, and he appeared to be favourable to it. He is the Vice-President of the Registrars' Association, and Mr. Lowe is the President. I asked him if he thought Mr. Lowe would be favourable towards the staff becoming Civil servants, and he said, "Yes, as far as I know."

52,120. Did you ever hear of clerks to surveyors of taxes?—Yes.

52,121. Has your association ever considered their former position as being in some respects analogous to yours?—They are analogous, I should say. Some of them—the senior clerks, I think—were put upon the establishment, but I think they are all going to be put upon the establishment. (Mr. Wade.) They used to be paid by lump sum. (Mr. Hemmons.) I think all in the near future will be established, if they are not already.

52,122. Perhaps you are not far wrong, but I was wondering whether, in regard to this question of superannuation, you might not be able to find some such way out of the difficulties that appear to have been facing you as to a superannuation scheme, but it appears you have given consideration to that matter.

52,123. (Mr. Graham Wallas.) You have submitted to us a paper by Mr. C. J. Fletcher, of Rugby. It is sent to us by the County Courts Officials Association?—(Mr. Wade.) I believe that was sent by the Smaller Courts Association before the amalgamation.

52,124. Is there anyone here who was concerned in sending that in?—I belonged to that association, but I know nothing whatever about it. I have read it.

52,125. Mr. Fletcher says: "I remember reading the Report of the Commission or Committee appointed a few years ago to inquire into the subject of imprisonment for debt as it is commonly termed. There were two of the judges who gave evidence, who stated that they seldom cared to make orders of com-

"mittal, and they found that one of the results was a large reduction in the entry of complaints, a result to which their registrars soon drew their attention, explaining the effect of it upon their salaries." Do you remember when that Commission or Committee sat?—No, but I know it is the case, that where the judges have refused to commit in certain courts the number of complaints has gone down as a result of it, and the registrar's salary follows suit, and therefore it detrimentally affects the clerks and officers in their employ.

52,126. And you think probably that that result has been represented to the judge?—I could not say.

52,127. In another paper which your association submitted, they said: "The registrar is frequently absent, either in connection with the business of his own private practice, or for other reasons, for days and sometimes weeks together?"—That is so.

52,128. Does that apply to a good many registrars?—It does.

52,129. And meanwhile the office is run by the clerk?—Yes. I can give cases which happened in my own experience. My late registrar has been absent at times for three months together, and at other times for a month. I am not saying it against him, but only as a matter of fact. My present registrar went to Italy last year for a month, appointed no deputy, and left me in charge during the whole time.

52,130. (Chairman.) What happened to the judicial work of the registrar in his absence?—He appointed another solicitor to sit for him on the court day which came while he was away. It is a monthly court.

52,131. Has he power to appoint a deputy?—Yes, but he is not obliged to do so.

52,132. Then he appointed a deputy for the purposes of the court work?—For the purposes of the court work only for one day.

52,133. (Sir John Kempe.) In your memorial you say that: "The total amount of public money passing through the hands of the officials was over 3,000,000*l.*, which had to be paid into a public account at a bank sanctioned by the Treasury, all fees having to be accounted for to the Treasury, the books and accounts being audited by a Treasury auditor." The Treasury auditor is the superintendent of County Courts at the Treasury?—(Mr. Hemmons.) There are a number of auditors under him superintending.

52,134. But it is his department?—Yes.

52,135. Can you tell me what the extent of the audit is. You say, "books and accounts being audited." Does he go into the details?—(Mr. Wade.) Not into all records.

52,136. How does the registrar satisfy himself that there has been no defalcation amongst his own officials?—If he is not satisfied with the examiners' audit he would do it himself, but the examiners do it pretty thoroughly.

52,137. Do they look into the receipts and cheques?—Yes, all receipts and papers. (Mr. Hemmons.) It takes him a fortnight every quarter to examine the one court at Bristol.

52,138. I understood the superintendent that he did not go beyond checking the balance sheets?—He checks all the salaries. (Mr. Wade.) And the fees due to the Treasury, and all such things as that.

52,139. (Chairman.) Does he check the cash book entries with the vouchers—the receipts?—Mr. Hemmons.) He does some. He has not time to do it all in the court, but he does some here and there.

52,140. A test examination?—Yes. (Mr. Wade.) He could not test all the postings in the ledger. He could not do it in the time: there are thousands of entries.

52,141. (Sir John Kempe.) We are told that the postings from the cash book to the ledgers could not be checked, but any deficit is made good by the registrar?—(Mr. Wade.) That is so. The registrar has to give a bond to the Treasury.

52,142. Still the superintendent does satisfy himself by a test audit?—Yes. (Mr. Hemmons.) You asked me just now what reason I had to believe that the registrars and high bailiffs would be agreeable to our being made Civil servants with pensions. The high bailiff in our Bristol Court was appointed when we were at the top of our

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numbers—25,000 complaints. We have now gone to nearly half that since the war, and his salary has gone down in consequence. I think he would be agreeable to having a fixed salary—you will allow that. The registrars are also suffering in the same way.

52,143. (*Chairman.*) Have the other gentlemen any special points they wish to add to what Mr. Hemmons has said?—(*Mr. Cross.*) The number of clerks and bailiffs over 65 years of age is 58.

52,144. Is that among the whole staff of the courts or among your members?—That is in the over 6,000 complaints courts, over the whole, so far as we have been able to find out, in 1913.

52,145. Are there any points you wish to add to what Mr. Hemmons has said?—No, I am in the High Bailiff's Department at the Cardiff County Court.

52,146. Do the arguments and considerations Mr. Hemmons has explained apply generally to the staff of the High Bailiff's Department?—I think, with regard to the indoor staff, if I may be allowed to say so, in the high bailiff's office it is necessary to have some legal experience. When I entered I had passed the preliminary law examination, and it was necessary to do so in order to get the post. Things have changed in the County Courts in the last 20 years.

52,147. In what direction?—That there is a different class of bailiff and clerk altogether. Under the old system a bailiff used to be promoted up to chief bailiff, and there are some now in the courts who are hardly able to spell the King's English, and are not fit for the post. All that is changing. Every clerk now in a high bailiff's office is got from a solicitor's office. I had been for 10 years before in a solicitor's office.

52,148. You had served 10 years in a solicitor's office?—Yes, and I have been in the high bailiff's office 25 years. We tried to promote one of the bailiffs to be next clerk to me, but it was useless. They are a distinct class; they are outdoor men entirely, and the legal training is not so necessary.

52,149. Your point is, that under the present circumstances, some legal training is necessary for the high bailiff's clerks?—Yes.

52,150. And you would apply Mr. Hemmons' argument as regards security of tenure, pension, and establishment as Civil servants, to the high-bailiff's staff as well as to the registrar's staff?—Yes, and I should like to say with regard to the duties of the bailiffs that we have not set out any list of duties, because they are so numerous that it would occupy a good deal of your time.

52,151. I suppose we may say, broadly speaking, they execute the processes of the Court?—Yes, and at great risk of life, which I can prove in many cases.

52,152. Is that risk of life from violence on the part of the persons on whom process is being executed?—Yes, and almost international questions arise in Admiralty matters. I can give a personal instance of a French ship when I tried to arrest her, and the captain and his crew lined up on the deck just outside Cardiff on the East Mud and threw the French flag across the bulwarks of the ship, and, with hammers and different things in their hands, dared anybody to come across. I could not get the tug people to rush it with me; they were not Englishmen enough to do it, and I had to retire. That same night that man sank that boat, a French barque loaded with patent fuel. The high bailiff looked to me to execute that warrant and arrest that ship and detain her, and, of course, the great responsibility was upon my shoulders. I was down there nearly all the night watching this boat, and at last I patched her up and towed her into dock, because I found that the captain had sunk the ship on the mud.

52,153. In order to escape the arrest of the ship?—Yes. He did not escape because I patched her up and towed her in, but he thought, as undoubtedly would have happened in two or three tides, she would have gone to pieces. She was covered with water at high-water. That is one instance. There are dozens of such instances in Admiralty cases because the bailiffs have no uniform. In the High Court the work is done by the Marshal through the Customs House, and the Custom House officers being in uniform they take

notice of. They take no notice of a bailiff because he has no uniform.

52,154. (*Sir John Kempe.*) Are not you entitled to call on the Custom House officers to help you?—No; and there is great difficulty with the police, even with ordinary warrants of arrest.

52,155. (*Chairman.*) Are you not entitled to call upon the police to help you?—We are entitled to, but there is difficulty because they say the warrant is not addressed to them. If we arrest a prisoner after 9 o'clock when a gaol is closed we have to keep him in our own house all night. I have known that some of our men have gone to bed with a prisoner in the prisoner's house, have slept with him all night, and the next morning taken him to gaol. There again is a risk all the time. It is easy enough for a man, and it is natural enough—I do not blame him—to get annoyed when he is going to be arrested. I suppose any of us would feel the same; so there is a risk all the time.

52,156. You were speaking of the clerical staff of the high-bailiff?—Yes.

52,157. There is also the outdoor staff—the bailiffs?—Yes.

52,158. Do you suggest that they should be made pensionable also?—Yes, I do, because they have nothing to look forward to at all. If they are injured in the course of their duties they are dismissed. There is no compensation of any kind or description, except under the Workmen's Compensation Act, and that is very little. It is the execution of a public duty, because the warrants are addressed to the bailiffs. They themselves have a right apart from the high bailiff to execute warrants. They are officers of the court, and can be dismissed by a County Court judge, which does not apply to a clerk. They are in a very difficult and dangerous position, and I think it is only fair they should have some compensation. The Treasury have been asked for compensation. I have cases where they have been asked for it and where it has been refused.

52,159. Compensation for injury?—Yes.

52,160. That is to say, in addition to the compensation under the Workmen's Compensation Act?—Yes. I mean there is no help at all from the Treasury; that is the attitude they take up. With regard to the bailiffs' work outside, there are 15 different kinds of summonses which have to be served at 15 different and varying times for the last day of service so many days before the Court day.

52,161. Is that indicated on the summons?—No.

52,162. The bailiff has to know the particular kind of summons that has to be served so many days before it is due?—Yes. Then again in our district we run 13 miles around Cardiff and anything may happen with regard to a bailiff, and he has to decide on the spot what he is to do. Last week we had a case on a mountain about five miles out of Cardiff. The defendant was not the tenant of the house, and the furniture in the house was said to belong to the defendant. The bailiff had to decide at once on his own whether he dare go into another person's house to seize the goods of the debtor. As a matter of fact they turned out to be not the goods of the debtor. Then you see he was liable to an action for trespass; he had no business there at all, although he had been directed there. But fortunately with his experience he managed to settle all those questions. It requires a good deal of tact and ability in a man to avoid what I think would very often end in a public scandal and a breach of the peace. I have had to prosecute many people for similar things, and even had magistrates refuse to fine a defendant for striking one of the bailiffs on the ground that the goods he had seized were not the goods of the defendant. As I pointed out to the magistrate, it was for the County Court judge to decide whether they were or were not; and then he brought the prisoner back and fined him 5s., but there was no compensation to the bailiff. The Treasury take the whole of the fines and pay the costs of the prosecution, and all that the bailiff gets is the injury—perhaps that is sufficient.

52,163. (*Sir John Kempe.*) I suppose if you could call in the help of the Custom officers you would not do it probably?—We do inform the Customs that we have arrested a ship.

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52,164. Do you inform them on every occasion or only when you have some reason for doing so?—They would not help us at all. We very often get processes for Custom officers ourselves; in fact, we find great difficulty in anyone helping the bailiffs in their work.

52,165. (*Chairman.*) (*To Mr. Wade.*) Have you any points you wish to add. Do you speak specially with regard to the smaller courts?—Yes, although the principal part of the work of all the Courts is identical. There was one question which was addressed to Mr. Hemmons earlier as to a comparison of the work of a solicitor's clerk and the work of a County Court clerk, and a comparison of their respective salaries. I have been in both offices. I was in a solicitor's office for 10 years before going into the County Court office, and I have been in the latter for 15 years, and I have not the slightest hesitation in saying that the ordinary work of a solicitor's office does not compare with that of a County Court office. The work of a County Court office is much more complex and intricate, and requires a lot more skill and study than the ordinary work of a solicitor's office. It has been brought home to me very forcibly since the war began, because I have been obliged, owing to the slackness of the County Court work, to assist my registrar in his private work, and so I have gone back to solicitor's work again, and I have been astonished after being out of it for 10 years to find how easy it seems after the complexity of the County Court system. Of course, that is only my opinion, but it is a practical one, because I have been through it myself.

52,166. Why did you leave your private employment to go to the County Court office?—Because I had to do several branches of work. There was not sufficient County Court work to keep me employed the whole time. I had to do partly solicitor's work and partly County Court work, and I preferred to go into employment where I could study one particular branch, and I went into a neighbouring County Court office as a whole-timer.

52,167. Was that solicitor, in whose office you were, a registrar?—Yes.

52,168. And you were doing partly solicitor's work and partly County Court work?—That is so, and I got promotion and a considerable increase when I changed.

52,169. In a different County Court?—Yes, a larger one.

52,170. You got an advance of salary?—That is so. I was only speaking of the comparison between the work of the two offices. I should like to speak with regard to a few of the grievances in the case of the under 6,000 plaintiffs courts. With regard to the main principles, we claim the same as in the case of the over 6,000 plaintiffs courts, that where we are whole-timers we really do the ministerial work of a public branch of the State and are entitled to be paid adequate salaries and to proper promotion and security of tenure, which at present we have not got. You may say to us, "Why do you not bring forward specific instances of hardship?" I should only be too pleased if I could. I have tried all I know, but the clerks who have suffered say: "No, I cannot possibly let you bring these cases before the Commissioners, because if my registrar hears of it I may be immediately discharged." But I can assure you that at the present time there are a lot of very unjust things going on in the County Courts some not so very far from where I live which ought not to go on, and which would not go on if we were established Civil servants. At the present time we get paid our salaries out of the lump sum which the registrar receives on a sliding scale according to the amount of business for the particular year, and he can pay us exactly as much or as little of that amount as he feels disposed. Some registrars are very good indeed, and I have no personal complaint to make against my own registrar, but their ideas vary very much. What one registrar thinks is an adequate salary another does not, and so it comes about that in neighbouring courts of practically the same size there is sometimes a discrepancy in the salaries amounting to about 40 per cent. That naturally leads to a lot of dissatisfaction.

52,171. Do the registrars who pay the lower salaries find much difficulty in recruiting their staff?—I do not

think so, because probably somebody has promotion to that court from a smaller court where he was getting a smaller salary.

52,172. And the men whom they get are efficient?—I should say so. (*Mr. Hemmons.*) Two clerks have left our court at Bristol because there was nothing ahead of them.

52,173. Did they go to another County Court or to private employment?—One went to Canada and one went into trade. (*Mr. Wade.*) There is no standard of pay or increment, and nothing for a man to look forward to. I do not complain personally against my registrar, but I have had no increase in my salary for six years, although I hope I have been gradually getting more efficient all the time.

52,174. What is your salary at present?—140*l.*

52,175. Do you get anything in addition out of fees?—Nothing whatever.*

52,176. Is that because there are none, or because the registrar does not allow you anything out of his fees?—Because the salary of the registrar does not justify him in paying me any more. I have no doubt he would do so if he could, but he is paid this sliding sum, and I dare say he does not feel justified in paying out more, especially as at the present time, owing to the war, his own salary is almost gone altogether. Then, although a registrar at present may be fair and pay his clerks adequately, he may die or retire, and the incoming registrar, who may not have seen the inside of a County Court office in his life, has the power to discharge the whole of the staff, decrease their salaries, or reduce the staff and put extra work on those who are left. It is these things that we so strongly object to. We consider we are working on a very unfair system, with no standard of pay, no increment, no promotion, and no pension, whilst in other branches of the public service, such as the High Court, where the work is similar, and the City of London Court, where it is identical, they have the protection of security of tenure and all the privileges of a standard rate of pay, increment, and pension rights. This is bound, as you can understand, to lead to a certain amount of dissatisfaction. We know what our salaries and responsibilities are, and what their salaries and responsibilities are. In the case of a small court, say, with 1,000 or 2,000 plaintiffs, where the registrar is not a whole-time servant, under the present system he is under no obligation to go into that County Court office for a week, two weeks, or a month; He has to attend the sittings of the Court and do certain judicial acts, but he is not obliged to devote any specified part of his time to the duties of the office. Moreover, he is allowed to practise privately and to take public appointments, and most of the registrars are busy men who have plenty to do in their own private practice, and have not time to study County Court practice, and the consequence is the clerks have to make a study of the work to carry it on in the absence of the registrar. We are responsible and are there the whole time, and whatever points crop up we have to deal with. We have to study the law and the rules and orders under the various Acts of Parliament, and carry out the work for the most part unaided.

52,177. You are in the office of the Trowbridge Court?—I am.

52,178. How many plaintiffs has that?—Our average number is about 1,200 a year, but the number dropped last year owing to the war.

52,179. How many clerks are there?—I had a boy with me until the war, but I have done it all myself ever since—all the clerk's work.

52,180. And it takes your whole time?—Yes.

52,181. You do not do any private work for the registrar?—I did not until just recently, but the registrar has lost two clerks who have enlisted, and I have lately worked overtime helping him in his private practice. I should like to add that anything I say is not at all personal against my own registrar, who knows I am coming here to-day, and he told me one thing which always struck him as what he considered more or less an injustice in the present lump-sum sliding scale

* As a general rule clerks in "Under 6,000" Courts do not get any part of the fees.—E. H. W.

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of salaries, and that is this: that in most small courts there are certain customers who issue a large number of summonses in the year, and they consider that they have therefore a right to demand certain orders of the Court. For instance, the registrar may say, "I do not think the defendant can pay, as you wish it, forthwith; I think, perhaps, I ought to make it 1l. a month, or 14 days," and they press for payment forthwith, and the registrar cannot help being influenced, inasmuch as they are his principal customers, and if he offends them they may take away their summonses and so reduce the number of complaints and the consequent salary.

52,182. Where could they take their summonses to?—Instead of issuing them, as some big firms do, in the court in which they reside, on an affidavit, they can issue them in the court in which the defendant resides without any affidavit.

52,183. Have they the option of issuing them either in their own district or in the district of the debtor?—Yes. (*Mr. Hemmons.*) They can issue them in their district if the cause of action arises in the district. (*Mr. Wade.*) On an affidavit disclosing jurisdiction.

52,184. Does that apply to all debtors?—(*Mr. Wade.*) To all debtors who live out of the jurisdiction.

52,185. Are those all the points which you wish to bring forward?—(*Mr. Cross.*) May I put in a list of the salaries of the bailiffs in the Cardiff County Court, with the dates of their appointment; also a list of about 10 officers, showing their length of service and pay in different courts; a list of the different kinds of summonses the bailiff has to deal with, and the number of days after service? (*Mr. Wade.*) This point may crop up later: A question between the whole-timer and the part-timer, where some sort of division can be drawn between what amount of work may and what amount may not justify a whole-time official. From my own experience, which is of small courts, I should say that a court of somewhere between 700 and 800 complaints per annum would be about sufficient for a whole-time clerk and a whole-time bailiff. To corroborate this, I mention the case of a court in my own circuit where the work was rather badly performed, and the judge had to reprimand the clerk in court upon the slackness of his work, and his excuse was that he was unable to devote proper time to the County Court business because he had to do private work for the registrar as well, and the judge of the court directed the registrar to appoint a fresh clerk who should devote the whole of his time to the duties of the office. In that court the complaints were approximately 700 a year. (*Mr. Cross.*) There is one other thing I should like to put in—the number of complaints and the allowances for clerk hire in a series of courts, showing that there is no system, and that one court with the same number of complaints gets 200*l.* more than another.

52,186. Is that for the high bailiff's allowance?—And for the registrar.

52,187. Is that in courts of over 6,000 complaints?—Yes. Some of them have gone down, but still they are regarded as being over 6,000.

52,188. Does not that inequality arise from the fact that the number of complaints in one court has gone down, and the allowance is not levelled down to correspond?—But you have the corresponding thing: Some courts where the numbers have gone up and the salaries have not increased.

52,189. My point is that when you get a rise in the amount of work you very soon get the allowance increased to correspond, because the registrar makes an application; but when there is a reduction in the work you do not get a reduction in the allowance until there are vacancies. Therefore in the meantime there would be an inequality between the allowances in the two courts?—But even in 6,000 complaints courts the allowance is reduced when the complaints are reduced.

52,190. Is it not the case that the allowance is not reduced except when there are vacancies?—No, it is reduced when the amount of work comes down in courts with over 6,000 complaints.

52,191. But not immediately?—Not immediately, because the number of complaints fluctuates. It is easy for a man to come in and issue 500 summonses himself in one day, which would make it go up. I have known that happen.

52,192. Supposing in one, two, or three years, in a court with over 6,000 complaints, the number of complaints goes down, the allowance is not immediately reduced?—Oh, no.

52,193. It is only reduced when there is a vacancy in the staff?—Yes, or after two years if the complaints keep down and do not go up again.

52,194. Is it ever reduced when there is not a vacancy in the staff?—Yes.

52,195. You are sure of that?—Yes. (*Mr. Hemmons.*) In my own court a year ago it happened. (*Mr. Cross.*) The high bailiff at Cardiff has letters saying that he must consider that unless the number of complaints increases his allowance must be cut down.

52,196. Can you give an actual case where the allowance was cut down without there being a vacancy?—(*Mr. Hemmons.*) One year ago in Bristol 200*l.* was taken off, and at the same time the Treasury said that the registrars must make it up out of their fees.

52,197. I thought at that time you said there was a vacancy?—No, there was no vacancy.

52,198. I thought you said the senior clerk had gone?—That was 14 or 15 years ago. There was no vacancy a year ago. There had been a large reduction in the number of complaints in Bristol previously to the war.

ONE HUNDRED AND TWENTY-SIXTH DAY.

Thursday, 15th April 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Right Hon. LORD MERSEY.
Sir DONALD MACALISTER, K.C.B.
Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.
Mrs. DEANE STREATFEILD.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. J. F. TOWNSEND, Mr. A. BROCKLESBY, and Mr. R. L. OVERBURY, called and examined.

52,199. (*Chairman.*) (*To Mr. Townsend.*) You are a clerk in the first class in the Central Office of the Supreme Court of Judicature?—Yes. I am what used to be called a principal clerk who went up to 700*l.* a year.

52,200. How long have you been in that department?—I have been in the Summons and Order Department since about 1886.

52,201. How long have you been in the offices of the Court?—48 years.

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[Continued.]

52,202. That is since 1867?—Since 1867.

52,203. What is your present salary?—660*l*.

52,204. (To Mr. Brocklesby.) You are a clerk in the second class?—I am a second class clerk in the Central Office.

52,205. What is your length of service?—34 years.

52,206. For the whole of that time in the Central Office?—Yes.

52,207. You are at present at the maximum of the second class?—Yes.

52,208. (To Mr. Overbury.) You are a clerk in the third class?—In the third class.

52,209. And what is your service?—4½ years.

52,210. (To Mr. Townsend.) Had you any service or experience in a solicitor's office or any other legal office before entering the offices of the Supreme Court?—No; I was 17 years of age when I entered, and I came straight from a public school.

52,211. (To Mr. Brocklesby.) Had you any previous experience?—Yes, two or three years' experience.

52,212. In what capacity?—Well, I did everything.

52,213. In a solicitor's office?—Yes.

52,214. As a junior clerk in a solicitor's office?—I had the management. We were solicitors for Lord St. Vincent, and we managed two fairly large estates, and all the litigation, all the legal work in connection with that fell to my share.

52,215. What had been your legal training or experience before that?—None whatever before that.

52,216. Did you at once step into the charge of all the legal business connected with these estates without any previous learning or experience?—No, gradually, by degrees. I was the only clerk. I went to this gentleman in the Temple with a view to being articled to him, but he died after a few years.

52,217. What age were you then?—I was 19.

52,218. When you began?—When I began I was 16 or 17; 16, I think.

52,219. So that when you were 19 were you in complete charge of all the legal business in connection with these two estates?—Yes, he left it all to me—under supervision. I used to write to him occasionally.

52,220. Under the supervision of your principal?—Yes.

52,221. Why did you leave that important work to enter the offices of the Court?—I thought it was a better prospect for me.

52,222. (To Mr. Overbury.) You will speak on behalf of the third class clerks in the office?—Yes.

52,223. Will you tell us briefly what the case is that you wish to present on their behalf?—I think you have before you the petition which has been sent in by the clerks in the Central Office.

52,224. The Commission have before them a petition to the Lord Chancellor, dated the 16th December 1912. Is that the paper to which you refer?—That is the petition.

52,225. You wish to put forward the representations made in that document?—I do.

52,226. You suggest there that the salary of a third class clerk is not adequate, considering the work which he performs?—That is so.

52,227. On what do you base that suggestion?—We base it on the suggestion that in other departments of the State, where the work is of equal importance, the scale is higher.

52,228. Will you tell us to which departments you refer?—I cannot speak of my own knowledge of many departments, but a list has been prepared of certain departments where the scale or the maximum which may be obtained is higher than in our department or in the Central Office.

52,229. Are those departments in which you represent that the work is similar to the work that you perform?—Yes, it is work we say of equal importance. I do not know that we can compare the actual work of our department with the work of those departments.

52,230. Are those departments entered in a similar manner?—One department is entered in a similar manner, the Privy Council Office.

52,231. Are you speaking of the Judicial Department of the Privy Council?—Yes.

52,232. What is the scale there to which you refer?—I am afraid I have not the scale of the third class, but my point was that they have the opportunity of rising to a higher maximum than we have.

52,233. Which are the clerks to whom you refer?—In the Privy Council Office I think it is the second class clerk who rises to 800*l*., I think.

52,234. How many second class clerks are there in the Privy Council?—That I do not know.

52,235. So far as I see, there is no second class of clerks in the Privy Council Office. There is a second clerk. That is only one single person, not a class at all. There is also one single person who is termed third clerk. That hardly seems to afford a large basis for comparison?—No.

52,236. Will you pass on to one of the other offices with which you wish to compare yourselves?—There is the Principal Probate Registry, that is another department.

52,237. What is the scale of the third class there?—The scale of the third class is the same as the scale in the Central Office.

52,238. Then what is the inference that you draw from that?—My point there again was that they have an opportunity of rising to a higher maximum by promotion.

52,239. I thought you were dealing with the salary of the third class clerks at present. So far as the salary of the third class clerks is concerned, the Probate Registry is on the same footing as you are?—Exactly.

52,240. Will you deal with that point first, the question of salary?—It is rather difficult to deal with one class alone, because we are not on the same footing as the different departments of the Civil Service, and probably there is no class which is exactly similar to our own class. It is rather difficult to compare the scale.

52,241. It was your own suggestion to deal with the three classes separately. Do I gather then that as regards the salary of the third class specially, you have no specific cases to put forward with which you wish to compare yourselves?—I can of my own knowledge compare the work with that of one other department. So far as I know there is no third class in this other department, but speaking of the difficulty or the importance of the work: At the beginning of the war, I was lent for service to the Admiralty Transport Department, and I did certain work there which I believe is done by assistant transport clerks, I think they are called, and their scale I believe is 350*l*. to 500*l*. I can say of my own knowledge that the work there is not certainly of more difficulty than our own; but of course that is not a legal department.

52,242. It is a little difficult to compare the work in their case, is it not; it is so entirely of a different character?—Yes, I have a difficulty in making a comparison with another legal department.

52,243. Was that class of clerks a permanent class, or was it a class temporarily arising out of the war?—No, it was a permanent class.

52,244. We have no evidence, so far as I know, as to that class or as to the exact nature of their work, but do you suggest that there is a direct comparison between it and the third class clerks in the Central Office?—The work was not more difficult or more important than the work of the Central Office.

52,245. Have you compared the salaries and the work assigned to the third class in the Central Office with the salaries and work performed by solicitor's clerks in the outside profession?—I have not compared the work.

52,246. You do not base your claim for a better salary on any comparison of that kind?—I am afraid I do not know very much about the work in a solicitor's office; I do not know what class of solicitors' clerks you are comparing us with.

52,247. I mean Common Law clerks in a solicitor's office?—I should say that our work was more important.

52,248. Have you any knowledge of the salaries paid to such clerks?—I have no definite knowledge.

52,249. You have not gone into that comparison for the purpose of supporting your claim?—No.

52,250. The particular claim that you put forward in your petition is that the salary of the third class

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[Continued.]

should be 120*l.* rising by annual increments of 15*l.* to 250*l.*, instead of the present scale of 100*l.* rising to 200*l.*; is that not so?—That is so.

52,251. Are there any other points you wish to put before us in support of that claim?—The real grievance of the third class clerks in the Central Office is the slowness of promotion.

52,252. What is the service of the man at the head of the third class at present?—8½ years.

52,253. So that he has not yet reached the maximum of his scale?—No.

52,254. Have you compared that with the rate of promotion in other offices of the Supreme Court?—May I explain the probable reason for that?

52,255. Yes?—Some four or five years ago a number of men, four or five, I think, were transferred from the Central Office to the Court of Criminal Appeal, and those men were either junior second class or senior third class clerks; that accounts for the recent rapidity of promotion from the third class to the second.

52,256. At the present moment the position as regards promotion from the third class appears to be not unsatisfactory?—It is not unsatisfactory. I have here tables showing how in future the promotion of the third class clerks will be exceedingly slow, if I might show you these (*handing in the same*).

52,257. These tables are based on what assumptions?—It is assumed in the black ink writing that the length of service is 45 years.

52,258. That is to say, you assume that all clerks will have served 45 years before retirement?—Yes.

52,259. Irrespective of their original age of entry?—That is so.

52,260. You assume that a man who entered at the age of 30 will serve 45 years?—Yes.

52,261. Is there any allowance for casualties by retirement from ill-health or death?—There is no allowance for casualties.

52,262. In order to get an accurate forecast, surely you ought to make allowance for casualties?—You ought probably, but casualties, I think, are very low. The number of deaths of members of the staff during service is very small.

52,263. But if you take the ordinary actuarial basis which would be taken for insurance purposes, you would probably get a result approximating to the facts, would you not?—I have not done that.

52,264. To get an accurate forecast, there ought to be that additional allowance?—Certainly.

52,265. Especially as you were assuming that persons who enter at the age of 30, or approaching 30, will serve to the age of 75 or thereabouts, when casualties may become rather more frequent?—The red ink figures show the estimated years of retirement and promotion, if retirement be made compulsory after 40 years' service.

52,266. Will you tell us very briefly what your result is on the bases you take? Your two bases are retirement after 45 years' service and retirement after 40 years' service. What is your estimate as regards the number of years' service before promotion?—The estimate based on the assumption that retirement takes place after 45 years' service, is that the length of service in the third class shows an average of 18·8 years.

52,267. The figures that you give, and on which that average is based, show a steadily increasing length of service as you get down the list, do they not?—Yes.

52,268. Does not that steadily increasing length of service suggest that you have overlooked an important item, namely, casualties?—That may be the effect.

52,269. Shall we pass on to the second class? (*To Mr. Brocklesby.*) You proposed to give evidence with regard to the second class?—If you please.

52,270. Your general representation is, I understand, of the same character as that on behalf of the third class?—Yes.

52,271. Are there any points that you wish to add specially in respect of the second class?—No, I do not know that there are.

52,272. The suggestion made in the petition is that the salary of the second class should be 300*l.*, rising by

annual increments of 20*l.* to 450*l.*, instead of the present salary of 250*l.*, rising by 15*l.* to 400*l.*?—Yes.

52,273. Have you any comparisons with other work or other offices that you wish to suggest as regards the second class?—No, except the Chancery Division; there they have 23 first class clerks, whereas we have only 11.

52,274. You suggest that the proportion of higher places in the Chancery Division is larger than that in the Central Office?—Yes, a great deal larger.

52,275. It has been represented to us in evidence that the work in the Chancery Division is of a more difficult and complicated and responsible character than the work in the Central Office. Do you agree with that?—I should not say so. I do not think so—certainly not, judging by my own work.

52,276. It has been represented to us that in the Chancery offices there is a large amount of administrative work dealing with estates and properties, and also that the nature of the Chancery proceedings and orders is more complicated than corresponding work on the Common Law side. Do you agree with that?—(*Mr. Townsend.*) If I may intervene, a clerk, Mr. Lovell, who was in our department, was transferred to the Chancery Division and made a first class clerk, and I am told that he had a very high character there for his ability and the way in which he did his work. His training had been entirely in judges' chambers; he was originally one of the judge's clerks in the old judges' chambers. He was transferred to the Central Office when it was formed, and we worked in with the old judge's clerks as long as they lived; he was transferred, to get rid of the judge's clerks, to the Chancery Division, and I am told that his character there was very high for the ability with which he did his work.

52,277. (*Mr. Coward.*) He is not a first class clerk now, is he?—I believe he is dead; I am not sure.

52,278. (*Chairman.*) But, speaking generally, would you agree with that statement that the Chancery work is of a more complicated character than the Common Law work?—I think one cannot deny that it is more complicated, because a Chancery order has to go into more details than generally happen in Common Law orders. I do not think it necessarily requires more ability, if I may say so. I do not think it requires a higher class of man to do the work there than it does to do the work of orders on the Common Law side.

52,279. (*To Mr. Brocklesby.*) You suggest that there is a disproportion between the relative numbers in the classes in the Central Office and in the Chancery Office?—I do.

52,280. That, of course, is a comparison that might cut in both directions. It may be that the proportion is too large on the Chancery side?—Quite so.

52,281. What is the length of service of the men at the top of the second class in the Central Office?—Thirty-six years Mr. Baynes and 35 years Mr. Hall.

52,282. And among the most recent promotions what is the length of service? Is Mr. Woodcock the latest promoted into the second class?—Mr. Darwall, I think.

52,283. What is Mr. Darwall's length of service at present?—Something very small, I believe. (*Mr. Townsend.*) Seven years.

52,284. A little over seven years?—(*Mr. Brocklesby.*) Yes, but that was brought about by the reason stated by Mr. Overbury, by the clearance in the office caused by the formation of the Court of Criminal Appeal; they were particularly lucky.

52,285. When did that take place?—(*Mr. Townsend.*) About four or five years ago. I think if you have the list of the official staff before you you will be able to follow it by seeing the number of men appointed in one year. (*Mr. Brocklesby.*) In 1908.

52,286. In 1908 there appear to have been two promotions to the second class. Which was the year in which there was that special flow of promotion—1908?—(*Mr. Townsend.*) You will find that there were five men appointed to the office in 1908 and three in January 1909.

52,287. Which were the five in 1908?—(*Mr. Brocklesby.*) Mr. Griffiths was appointed in April 1908.

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52,288. He was appointed to the public service in January 1906 apparently?—(*Mr. Townsend.*) He was two years in Chancery chambers.

52,289. He was transferred to the Central Office?—Yes.

52,290. So that he preferred the prospects in the Central Office?—Yes, I suppose so.

52,291. You say that there was a special flow of promotions into the second class owing to the transfer of men from the Central Office to the Court of Criminal Appeal. I do not see in which year there was any special flow of promotion?—The men who were transferred from the Central Office to the Court of Criminal Appeal were some of them third class men.

52,292. That would not affect the rate of promotion of the men at the top of the third class?—It would affect the rate of promotion of all men under those men who were transferred. It does not follow that it would affect it immediately, but in the case of any man who had had three or four years' service the man moved from above him would naturally be in a higher position and get his promotion sooner.

52,293. But this does not affect the men at present at the top of the third class?—If it had not been for those men being withdrawn they would have been lower down the class than they are.

52,294. But were the men who were withdrawn senior to the men who are at present at the top of the third class?—Yes, I think I may say all of them were.

52,295. So that it was by taking away men at the top of the third class, and not by taking men out of the second class, that the promotion from the third class was accelerated?—By both.

52,296. How many men were taken out of the second class?—I think there were two taken out of the second class, so far as I remember.

52,297. In which year was that?—In 1908.

52,298. I see in 1908 there were two promotions to the second class?—Yes, and the others must have been vacancies in the third class.

52,299. In 1907 there were three, and in 1909 there were two. I am talking now of promotions to the second class. In 1907 there were three?—Yes.

52,300. In 1908 there were two?—Yes.

52,301. In 1909 there were two?—Yes.

52,302. In 1911 there were two?—Yes.

52,303. In 1912 there were three?—Yes.

52,304. In 1913 there were four?—Yes.

52,305. It would appear, therefore, that so far as promotion to the second class is concerned 1908 was rather below than above the average?—Promotion to the second class.

52,306. So that if that withdrawal of men that you speak of had any effect on promotion, it was the fact of the withdrawal of men at the top of the third class rather than the withdrawal of men already in the second class?—Yes.

52,307. And, in fact, looking at the dates, the flow of promotion appears to have been very fairly steady over the last ten years or so?—It has been going down steadily for the last 15 years, and more than that.

52,308. (*To Mr. Brocklesby.*) At present there is no rule as regards retirement at the age of 65 in your office?—That is so.

52,309. Are you in favour of the establishment of such a rule?—I used to be very keen upon it at one time, but as one gets older one is not so keen.

52,310. (*To Mr. Townsend.*) What do you say?—I have been in favour of retirement at 65, as Mr. Brocklesby says, up to late years. I am now 65 myself, and I feel as capable of going on as I did a few years ago.

52,311. You begin to feel doubts about the equity of the rule as you get older?—I think it is a good principle, but I think there ought to be exceptions to it. I do not think I ought to travel outside this petition.

52,312. The petition mentions the question of retirement at 65, if I am not mistaken?—I think if you refer to Lord Coleridge's Committee you will find that they recommended retirement at 65 for the first class and retirement at 60 for the second class, with, in the case of the first class, an extension of time of five years if the heads of departments thought it was advisable.

52,313. You are acquainted with the ordinary Civil Service rule?—Yes.

52,314. Which is that a man may retire at 60, and he must retire at 65, unless in very special cases, in which a minute has to be laid on the table of the House of Commons, his retention is sanctioned beyond that limit?—I am aware of that.

52,315. Do you consider that rule would be suitable for the Central Office?—No, I do not think it would. I think the experience that a man gets in a certain position in the Law Courts when he comes to be at the top is one of very great usefulness, and it is knowledge that one can only get by experience.

52,316. (*Mr. Coward.*) What sort of knowledge would you say can only be got by experience?—It is knowledge of practice and procedure. I do not like going into details of this sort of thing, because it is somewhat awkward; but I have to sit in judges' chambers with the judge there, and I hear everything that is done in one case and another, and I can tell one judge what another judge has done under certain circumstances, what the practice as regards the details of the office is, which the judge perhaps does not understand—how his order will be carried through, and so on. It is difficult to say what I do. I believe Lord Mersey will know something about what was done in judges' chambers in days past.

52,317. (*Chairman.*) Your point is that the long experience of the practice of different judges enables clerks of long service to give useful information to the judges and masters under whom they are working?—Yes, there are things that perhaps may not turn up for two or three years' interval; for instance, in judges' chambers the judges have to deal with Inland Revenue matters, writs of extent and things of that sort; they are very rare, and a man who sits in chambers ought to be cognisant of the practice of all that sort of thing. Then some Crown Office applications come to chambers too, and it is necessary that the clerk who sits in chambers should also know the details of practice of those matters, and that knowledge is a thing that you cannot get except by experience.

52,318. Is it not primarily the master's duty to advise the judge on questions of practice of that kind?—No, the master never advises the judge unless the judge happens to send for him on a question on some case on appeal that has been before the master. I am not saying that I advise the judge, because it would be impertinent for me to say so, but I do give the judge information occasionally which he does not happen to possess. I call his attention to cases that I know of bearing on the subject, if sometimes counsel have missed them, and so forth.

52,319. Your suggestion is that the long experience is very valuable in matters of that kind?—I think so.

52,320. What may we take to be your recommendation to the Commission on the question of an age limit for retirement?—I think it would make a difference in the promotion of the juniors and, of course, speediness of promotion is really an increase of salary for a man because his prospects are increased and, therefore, it would be a good thing for the office to have a steady flow of promotion. No doubt it would do away with a great deal of discontent. But I think there are cases, where a man has had a good deal of experience and is known to be a good man, in which it would be an advantage that his time should be extended beyond 65 years of age.

52,321. (*Lord Mersey.*) Do you think that would be the opinion of men waiting for appointments?—No, I do not.

52,322. (*Chairman.*) (*To Mr. Brocklesby.*) Do you concur in what Mr. Townsend has said?—I must say that I think retirement at a fixed age would be a desirable thing for the office.

52,323. (*To Mr. Overbury.*) And do you agree?—I think so, too.

52,324. (*To Mr. Townsend.*) You speak specially on behalf of the first class?—Yes.

52,325. Have you any further points to put forward affecting the first class specially?—Yes, I want to say this, that though I believe Sir Kenneth Mackenzie gave evidence that none of the old staff remained, and that the old scale was practically worked out, I do not think

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that is so, because, if I may put it in this way, when I was a third class clerk I was receiving a salary up to 300*l.* a year, because, under the old scale, I should have been entitled to go up to that salary. When I was a second class clerk, the maximum of which was 400*l.*, I was receiving a scale, after 27 years' service in the Law Courts, from 400*l.* to 500*l.* I did not stop at the maximum of 400*l.*; I went on to 500*l.*

52,326. When were you promoted to the second class?—I was promoted to the second class after 21 years' service.

52,327. In what year?—That would be in 1888.

52,328. Did you receive, in the second class, the specially raised scale that was given as compensation to officers appointed before 1880?—Yes.

52,329. That is to say, a scale going up to 500*l.* instead of 400*l.*?—Yes.

52,330. Now that you are in the first class, do you receive the special scale?—When I first entered the first class I went up to 500*l.* to 600*l.*; then when a vacancy occurred among the principal clerkships, which, I think, was only three years ago, I was going up then by 20*l.* to 700*l.*, and I have got up to 660*l.*

52,331. Then, what is your point?—My point is this, that when it comes down to Mr. Brocklesby, for instance, and Mr. Baynes, the first two on this list, I believe, they do not go up to that 500*l.*

52,332. Because they were appointed after 1880?—Yes, if they have to wait for promotion until 30 years' service, to 400*l.*, that would be a very bad look-out for them, and, I think, myself, that the second class ought to be raised with a view to men who are higher up like that getting a better salary. You see, if you compare us with the Chancery chambers or with some of these other offices, the chances of promotion are so much greater with them than they are with us. For instance, in our case, we have 28 second class and 30 third class clerks to go up into 11 places; all of them cannot possibly get there, or anything like all of them. Thirty-seven years is an enormous number of years to serve before you get anything, and especially when the age of appointment to the office is from 20 to 30 years. I think, myself, that time ought to be altered to from 17 to 25 in order to give a man a chance of getting an income upon which he can marry and bring up a small family at a reasonable age; that he should not have to wait until he is 45 before he can marry; he ought to be able to marry between 27 and 35, and if you have a man for a long time on a low salary he cannot do it.

52,333. I gather from that, you are of opinion that men should be appointed without necessarily having had previous experience in a solicitor's office?—Certainly.

52,334. You do not think it is necessary?—No. I have had men in my department who have had experience in a solicitor's office, and I have nothing to say against them at all, because they are more useful when they first come in; but I think that any man, with a proper liberal education, can pick up the work in the offices themselves, and from a point of view that a man from outside would not. I think the class of man you want is the public school man.

52,335. Have you made any comparison of the salaries in the Central Office with the salaries in solicitors' offices?—No, I do not think the cases are comparable. I think that the class of man in a solicitor's office is quite a different class from the sort of man you want to have in the Law Courts. If you are talking of articulated clerks that is a different thing, but if you are talking of the ordinary solicitor's clerk he is not the same stamp of man, he has not the same education as the man we want in our office.

52,336. I am talking of men who rise to be managing clerks in solicitors' offices?—There again, some have been articulated clerks, and some are even solicitors themselves.

52,337. Some are and some are not?—Yes, some are of other classes of solicitors' clerks.

52,338. The public, with whom you have to deal in your work in the offices are mainly solicitors' clerks, are they not—the people with whom you come in contact?—Yes.

52,339. So that you have a considerable knowledge of solicitors' clerks?—Yes; some of them are very good and smart men.

52,340. How would you compare the work of a managing clerk in a large firm of solicitors, as regards importance and difficulty, with the work of first and second class clerks in the Central Office?—It is difficult to say, but I should rather compare it with the difference between a specialist and a general practitioner.

52,341. Meaning?—Meaning that the solicitor's clerk is the general practitioner who has to know a great deal more than we have to know in various fields, but in the particular field in which we are engaged we are more or less specialists.

52,342. The field of the solicitor's clerk would be considerably wider, I suppose?—I may say that every day of my life I have solicitors themselves, as well as solicitors' clerks, coming and asking me points of practice in my particular department, because, naturally I must know more about that than they do.

52,343. You are a specialist in your particular department?—Yes.

52,344. Which is your particular department?—The Summons and Order Department.

52,345. You do not consider that a comparison in point of salary between the Central Office and solicitors' clerks would be a fair comparison?—I do not think so. I think they are a different class of men.

52,346. (*Mr. Matheson.*) How are third class clerks appointed at present to your office?—By nomination.

52,347. From what you said just now with regard to the qualifications of the clerks, it looks rather as though it would be better to appoint them like Civil servants generally, by examination. What do you say about that?—I think the examination might very properly be raised. I think the present examination is rather a farce.

52,348. It is very elementary, is it not?—Yes.

52,349. Should you be in favour of having an examination something like that of the ordinary Civil Service, say an improved second division competitive examination?—I am afraid I am not familiar with what the examination is.

52,350. I will not go into the question of examination in detail, but would you be in favour of filling the posts by an examination in general education of a competitive kind—not nomination at all?—I see no objection to it at all.

52,351. (*Sir John Kempe.*) With regard to what you said about retirement by age, I gather that your principal reason against it is that age gives experience. Have you any knowledge at all of the experience gained in the Civil Service generally outside the legal departments?—No, I cannot say that I have any experience outside the legal departments.

52,352. Still, you would not be surprised if you found that problems in the Civil Service quite as difficult as any that you can find in the legal departments require mastery by experience, in fact that experience is quite as useful in the Civil Service as in the legal departments; you would be prepared to admit that?—I cannot say anything about what experience is in the Civil Service. I only happen to have come across one case that I know at all, where I think the gentleman was in the Foreign Office, and his experience was considered valuable, and they extended his time up to the age of 70. I have no doubt that in all Government offices the same remark would apply, that experience is valuable as long as a man keeps his faculties; but it may be for the general good of the Service to put aside that benefit altogether, and it may be that for the general good of the Service and the promotion of juniors that a fixed time of retirement ought to be enforced.

52,353. I think your argument would apply equally to the whole Civil Service generally?—I do not say that it does not.

52,354. You would not say that the experience in the legal departments is so different from that in the rest of the Civil Service that it ought to be treated specially?—No, I would not say that.

52,355. I see, in your memorial, you make a remark as regards the first class: "It is respectfully submitted

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"that these principal clerkships," to which you have referred before, "ought to be permanently retained, as the Supreme Court has no position bearing special titles and carrying a salary of 700*l.* or 800*l.*, or even more, such as in several other public departments are open to clerks on the establishment."—Yes; perhaps I ought to have said something about that. I do not think, according to the petition, that it ought to be the four senior clerks, who, I think it is said there, should have 700*l.* a year. I think there ought to be four places of 700*l.* a year, and they ought to be in particular positions, such as the head of what we call the Central Office, that is the Writ, Appearance, and Judgments Office, the head of the Summons and Order Office, the head of the Crown Office, and the head of the Associates Office. I think they ought to have a salary of 700*l.* a year; they are important posts, and the promotion into those places should not be by seniority, but should be entirely by selection. And may I say this: That I think the promotion into the first class should be much more by selection than by seniority. The Coleridge Committee, if I remember rightly, said that it should be entirely by merit. I think that is right, but I do not think the control masters have that intimate knowledge of the work of the clerks throughout the office, which would enable them to fairly decide who is the best man below them, the consequence being that they give undue weight to promotion by seniority. What I suggest as regards that is, that the control masters should call into their counsel two or three of the senior clerks, leaving the selection to them, who should advise them about the names of men who are before them for promotion to the first class. I am sure that the masters try to do their best, and to act quite free from any favouritism of any sort, but they have not the necessary knowledge of the clerks to enable them to do so.

52,356. (*Mr. Coward.*) Do they ever see them?—In some departments I might say that they do not know the look of a clerk; but in my particular department I think most of my men are known to the masters, because if any point arises on an order, instead of my taking it myself to the master, I think it is very often much better to send the clerk who is actually drawing the order to see the master; the master then gets acquainted with him, and is able to judge about his merits. But in some of the offices the clerks never go near the masters at all. I have had a man tell me that he did not know them by sight even.

52,357. (*Sir John Kempe.*) Your answer to a very great extent meets my point, because the argument in the memorial is to the effect that there happen to be no positions open to the first class—no opportunity of promotion open; but what you mean is not that there is no opportunity for promotion, but that there are places existing that ought to be paid a higher salary than other places?—Yes.

52,358. It is not that you think that every office ought to have an office above it to go into?—No.

52,359. You mean that there are certain select places which you think ought to be paid more highly?—Yes.

52,360. Is the work of those particular places as important as it is in other offices where there are principal clerkships?—I should say it is, certainly.

52,361. And which can be separated and made into a class; are there sufficient important duties to justify principal clerkships?—Yes, I think so. I think that those offices which I have mentioned to you are offices of great importance, and the holders of those offices are in continual touch with the masters and the judges.

52,362. I gather from your answer to Mr. Matheson that you are rather in favour of open competition; you would accept open competition. It does not matter to yourself, of course, now?—No.

52,363. You entered by nomination?—Yes, I entered by nomination.

52,364. But, of course, we are glad to have your opinion as to competition. I gather that you think that the work could be picked up by competent men coming in from a public school?—Yes, I think so. I think the important thing is to get a man of character (character is a very important thing in the matter), and who has had a liberal education, has been accustomed

to mix with such men as he will find he has to mix with in the office, barristers, solicitors, and people of that sort, and to hold his own, and that he would be recognised by the ordinary solicitor's clerk as being a little bit above him.

52,365. By open competition you would on the whole get a higher class of man for the office than you get now—a more highly-educated class of man?—I do not think we should get a higher class of man than we get now.

52,366. Not on the average? Do you think that your worst man is as good as an open competition man in the second division?—I cannot give any opinion about what our worst man is equal to, because that would be getting rather personal. There must be in every public office a great difference, and I should go so far as to say that there are some men in my office who ought never to have been in the second class at all, and men who have got into the first class who never should have been in the first class. I am not talking of anybody here now, but men I have known in the past. I will give you an instance. I had a man working under me for several years, who received 700*l.* a year as a principal clerk, and he was issuing summonses in the Summons and Order Department, when I, a junior clerk, having under 300*l.* a year, was drawing up orders and doing the work that he could not do. That shows the evil of promotion simply by seniority, and the impossibility of getting rid of a man who is useless.

52,367. (*Miss Haldane.*) If a young man is coming in practically from a public school, and without necessarily having had experience in a solicitor's office, would he not come in younger than at the present time?—I should hope that he would come in at 17 or 18.

52,368. You spoke of nomination in answer to Mr. Matheson. May I ask you how you obtained a nomination?—I was given a nomination by Sir Frederick Pollock—not the Chief Baron, but his son, and the reason I was given it was that my father was a college friend of his. It was pure patronage, I am quite aware of it. I see nothing to be ashamed of in it.

52,369. Not in the least; I merely wanted to know whether the vacancies were made known, or whether it was by accident that you heard of one?—I will tell you how I got to know. There was a gentleman in the office at the time who was connected with a friend of my father's, and my father asked him to dinner and talked to him after dinner; he heard about the old Court of Exchequer Master's Office, and made inquiries and found that Sir Frederick Pollock had got a nomination, so he wrote to Sir Frederick Pollock, and Sir Frederick Pollock gave him a nomination.

52,370. What I wanted to ask you was, whether you thought it would be better on the whole that there should be some intimation of vacancies?—I do not see much use in that. It is generally known, I think, when there is a vacancy. I assure you people often write to me and say, "How do you get into the Law Courts?" and I write back and say, "Dear sir,—If you happen to know the Lord Chief Justice, or the Master of the Rolls, or the Lord Chancellor or his secretary, you must apply to them."

52,371. (*Sir Donald MacAlister.*) Or if they know any relative of these persons?—Yes, if they have any influence, in fact.

52,372. I gather from your long experience in the office, looking back to the men you have had under you, and with whom you have worked, that you see no difficulty in its being recruited at the age of leaving a good secondary school?—I would not say that. I do not know whether I am right, but I draw a great distinction between a secondary school and a public school.

52,373. Say a good public school, a school at which a good secondary education has been completed?—Yes. I mean that it is not only education, it is the character that a man gets in being at a public school.

52,374. But I mean the age of leaving a public school, somewhere about 18 or 19?—I think that the time after a man leaves school before he gets into business has been wasted, and I think the effect of having your age of entry from 20 to 30 is that you get a lot of men who have failed in some other position and come in late in life.

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52,375. You may not know that we have recommended, as a Commission, that in other parts of the Civil Service it is desirable that the entry to the several grades of the Civil Service should correspond to the time of completing a definite stage of education?—I think that is very desirable.

52,376. So that what you contemplate—what you think is permissible at least—is that the age corresponding to leaving a good public school would be the proper age for recruiting your third class?—Yes, about the age that a man goes to college.

52,377. And that apart from any preferences for nomination that you may have, competition would be as good a way of securing the right men as any other?—I should say so. It did occur to me the other day that instead of these nominations being given alternatively, each of the nominators should nominate one man, and those three might compete together.

52,378. Your point is that no professional education is really required for entering your third class?—I think that is so, but I would not say that a professional examination should not be instituted between the third class and the second. I think it might very usefully be done.

52,379. I was coming to that; I was speaking simply of recruiting for the third class?—No. I do not think you need have anything for that.

52,380. So that, so far as I gather from what you say, you favour a plan similar to that which we have suggested for the whole Civil Service, namely, recruitment at the age of 18 or 19, after a good public school education, and by competition to find out the best of the candidates?—I would even say 17 or 18.

52,381. Whatever is the age at which the education is completed?—Yes, a man of 17 is generally in the top form of his school.

52,382. Then, of course, the important point of promotion comes in too. You would suggest that for promotion from the third class to the second merit should be considered rather than seniority?—For promotion from the third class to the second I would make it necessary to pass an examination in the work of the office; from the second class to the first I would say that merit ought largely to over-weigh seniority.

52,383. Shall we take from the third class to the second? You would have an examination which would have to be passed by all third class clerks who wanted to be promoted into the second class?—Yes.

52,384. A qualifying examination?—Yes.

52,385. Not competitive?—No, qualifying.

52,386. At what sort of age would you propose to hold that examination, supposing that a man entered before he was 20, into the third class?—It would probably take him, in most cases, something like 10 years, or rather more, to get into the second class, and I should think at any time after the first six years he ought to be eligible to go in for the examination if he feels inclined.

52,387. So that you would have an optional examination, to be taken in less than 10 years after entry, in the subject matter which he would require to know if he was going to be a good second class clerk?—He would require to know the ordinary practice of the courts, and for that purpose, of course, he must be moved about from one department to another.

52,388. What sort of examination have you in your mind? It is interesting to the Commission, as we have not had one quite like yours suggested before?—Well, an examination as regards writs and appearances and the general rules as regards judgments, as regards the general nature of an action (when I was young I was given a book to read called "Smith's Action at Law"), and a general view of the steps in an action. I think it should be a very simple examination; I do not mean anything very deep, but just to see that the man had mastered what were the essential things; and he should have a knowledge of what the documents are he has to deal with.

52,389. Would that examination, in your view, be better held inside the office or by the Civil Service Commissioners or by the Law Society, or by some outside body?—I should think by the Civil Service Commissioners.

52,390. A professional qualifying examination for those who have entered without any professional knowledge?—Yes. I think the masters, or some capable body connected with the Law Courts, ought to make a syllabus of the sort of thing which they want to ask questions about, so that a man may know what examination he is going in for.

52,391. And you would practically make it impossible for a third class clerk who had not passed that examination to be promoted into the second class?—I would say that.

52,392. With regard to promotion from the second class to the first, you do not propose any further examination?—No.

52,393. But you do propose that a committee for promotion should be appointed, including those in the office who know most of the individual members of the staff?—I propose that the Committee of Control should call in officially two or three of the senior clerks, or, at any rate, clerks whose opinion they care for, to advise them, entirely privately, of course, as regards what is known in the office of the men down below, of their character and their qualities, and their claims for promotion. Promotion is a most difficult thing.

52,394. Do you know that in some departments of the Civil Service committees of the kind which you propose already exist?—I did not know that.

52,395. It is suggested that they should be rather more generally established. You were not aware of that?—No. Our masters do sometimes consult the senior in a somewhat casual sort of way. I want it to be official.

52,396. You would organise it and make it regular?—Yes.

52,397. Your several grades of clerkships are all pensionable, are they not?—Yes.

52,398. And yet there is no limit of age?—There is no limit of age.

52,399. Can you tell me, for my own information, if a man's pension increases steadily with the length of his service; the longer he stays the larger his pension?—On the contrary; I have just reached the age of 65, and I come under that new Treasury pension scheme. Having had 40 years of service, of course, I cannot get any more as regards pension, but there is a lump sum which is to be handed to me, I believe, when I retire, and that lump sum is decreased. I think it is by one-twentieth for every year I stay on from the present time.

52,400. There is a certain inducement to retire?—There is a great deal larger inducement to stay on. I get 700*l.* a year if I stay on. Mind you, I am not at my maximum yet, so that I should not get my full pension. If I stay on till I get 700*l.* a year I shall be getting my full salary for the next three years, and I should certainly be losing a very small amount—one-fifth of what I should get.

52,401. The inducement to retire is not strong?—No.

52,402. (*Mr. Coward.*) I should like to know whose duty it is to attend to the work of your office, that is to say, to determine how many men should be employed in it. Is there anybody whose duty it is to make himself master of the office and determine how many men should be employed in it, and so on?—I do not think it is anybody's duty, so far as I am aware. And that rather brings me to what Master Macdonell recommended, namely, that we should have a sort of chief of the staff whose duty it should be to organise the several offices and to see that they do not have too many clerks, or that they have enough clerks, or that the right men are put into the right places, and so forth.

52,403. That is exactly what I was at. There are between 70 and 80 people in your office?—Yes.

52,404. I was only inquiring whether there was anybody who determined the necessity for so many, and there is not, I understand?—I understand your question to be whether there is anybody whose duty it is to superintend the number of clerks?

52,405. Certainly.—There is nobody, so far as I know.

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52,406. And to superintend the organisation, generally, of the office?—The control masters would say that they do that, but I think it would be a very good thing to have—I do not know what you would call him—a business manager, or something of that sort, who would see that offices were not over-manned, that men did not waste their time at all, that there was not an excessive time for lunch, or anything of that kind.

52,407. (Lord Mersey.) Will you tell me how he is to do it? Is he to walk into the offices?—He would have to be in the nature of a shopwalker; he would have to be in the nature of somebody who went round and actually saw what was going on in the different offices. It would be his duty to do that.

52,408. (Mr. Coward.) I do not know that there would be any difficulty about it any more than in any commercial or solicitor's office. Somebody of that kind ought to know about the manning?—I fancy that it would be a very disagreeable position; I am afraid so.

52,409. Never mind about that, if it must be done. I gather that you are distinctly in favour of promotion by merit as distinguished from seniority, throughout?—I am. I always have been.

52,410. That, I should suppose, would stop all this objection to inability to get up, because a man who is worth it would get on?—Oh no, it would not; it would not increase the number of places that people have to rise to.

52,411. But it would avert the very thing you were saying just now. You said there were some men ahead of you whose work you were doing?—That was in very old times; that is very ancient history.

52,412. Possibly it would prevail to-day?—I do not think it could prevail to-day, because they would never put a principal clerk to do a junior's work in any department; they would get rid of him.

52,413. It would be very interesting to know what it is that these various classes do in your office, that is to say, in the Central Office. Take a third class clerk: Do you mind telling me what he does, what his duties are?—It entirely depends on what department he is in.

52,414. Take any department you like?—In some departments the head clerk does not make much distinction between what a third class man does and what a second class man does. In my own department I do.

52,415. Yours is the Summons and Order Department?—Yes. I try to keep the third class men on the summonses as being the simplest form of work, and work in which they become familiar with the summonses on which subsequently they will have to draw orders.

52,416. One moment—take that: A solicitor or his clerk will come in with a summons that he wants to issue?—Yes.

52,417. And he would issue it?—Yes.

52,418. He would hand it in, pay the stamp and get it stamped. Is that right?—That is right so far as it goes.

52,419. What else?—The clerk would have to read the summons and see that the summons was in order.

52,420. There is not much to read to see that it is in order?—Not as a rule, but it has to be done.

52,421. Is there anything to see?—He has to see also that an affidavit is necessary.

52,422. I should like to have an answer to my question. Is there anything to see? If I send up a clerk to issue a summons I do not expect to have that summons sent back to me with corrections and alterations on it?—No, and in 99 cases out of 100 you would not.

52,423. I have never seen it in about 50 years service?—Well, perhaps you have been fortunate.

52,424. I do not know about that. I want to know what it is that a third class clerk does. Does he do anything more than a man of ordinary intelligence could learn in a very few hours if he had been in a solicitor's office, say for two years?—Yes, I think he does. My experience is that if I get a man from outside it is generally a month or six weeks before I can let him issue summonses, because a man must be familiar with the documents he is working with. When a man comes into my department from the outside, I put him first of all to index the summonses upon which orders have

been drawn up, and I tell him he had better read those summonses. He indexes them and sees the meaning of them, and gets to know what a summons usually is and what a summons under Order XIV is, and then when he has been doing that for about a month and has got to know what a summons is, when a summons is handed to him over the counter he recognises the thing; he knows what it is and what is requisite on it.

52,425. What I want to know is, how does it concern him to know anything about it?—It concerns every man to see the work of his office properly carried out.

52,426. He has to issue a summons?—Yes, he has to issue a summons, but supposing it comes out wrong and he is told he never should have issued a thing like that?

52,427. I cannot follow it?—I do not think probably you have been down to the Law Courts for a good many years.

52,428. I know something about it I am bound to say to you. I should like to know what is it in your office that requires great acumen and great knowledge in doing the work. We were told some time ago that judgments were the most troublesome thing. You have nothing to do with judgments?—I have nothing to do with judgments except that I draw orders on which occasionally judgments are signed, but ours are the simplest ones.

52,429. The orders are drawn in accordance with the summonses as amended by the judge, if amended at all. There is nothing to do about that; there is no trouble about it?—It is all very well to say that there is nothing to do about it, but you have to see that these things are correct.

52,430. I know?—I can tell you that frequently in the courts to-day we have to go, or the men who are drawing orders (I do not draw orders myself) have to go back to the master for information as regards what he means to be carried out in the order; it may be enlarged.

52,431. I do not know whether Mr. Brocklesby understands about judgments?—(Mr. Brocklesby.) Yes, I do. I was in the judgment room for 12 years.

52,432. You do not suggest that there is any difficulty about judgments, do you?—It depends upon the judgment. In some cases there is a certain amount of difficulty; you must know what you are doing.

52,433. Now look here, I do not know whether it is worth while troubling about, but if you take an ordinary judgment—here is a case I hold in my hand that was tried by Mr. Justice Bailhache—it is all printed, and filled up by one of my clerks; it is taken up and sealed and stamped there, and that is all that anybody has to do with it?—It may be against a married woman and there may be no limitation clause.

52,434. Here are a good many; I have a bundle here and they are all the same?—I do think this: that a man signing judgments must know something about what he is doing. It does not mean that a copy is handed to him and he just puts a seal upon it.

52,435. Of course, everybody who has anything to do of a specialised kind must know how to do it, must he not?—Yes.

52,436. But surely you do not suggest to me that there is anything very difficult in the work that has to be done in completing a judgment?—I say that in many cases there is very little.

52,437. Nothing?—There is very little in it. For instance, judgments in default of appearance are a very simple matter; and judgments under Order XIV. or in pursuance of an order; but there are judgments which are somewhat difficult, and you want to go into the matter fully.

52,438. There is not much, I can answer for that?—That is my experience.

52,439. (Mr. Graham Wallas.) (To Mr. Overbury.) You are here in support of a petition which says that the scale of salaries which you suggest for the third class would more nearly correspond to the salaries paid for analogous duties in other departments of State than the present scale of salaries?—Yes.

52,440. You were asked to give an instance, and you gave an instance drawn from the Transport Depart-

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ment of the Admiralty in which you did temporary work?—That is so.

52,441. Will you repeat what you then said?—I said that in the Transport Department of the Admiralty we did work which was not more difficult than the work of our own department.

52,442. But you said what the scale of salary was?—I said that the scale of salary was, I think, 350*l.* to 500*l.*

52,443. What do you mean by saying that the scale of salary in the Transport Department is 350*l.* to 500*l.*?—I mean the scale of salary of the clerks whose work we were doing, or helping to do.

52,444. I have here the printed facts before me. Would you agree that that scale of salary is only paid to a staff clerk?—I think assistant transport officer is his description.

52,445. A staff clerk is a gentleman in charge of a considerable department of work?—That may be so; I do not know.

52,446. Do you know at what scale of salary a staff clerk enters?—I am afraid not.

52,447. You do not know that he enters as a second division clerk at 70*l.* a year?—I do not know that.

52,448. What age were these gentlemen who were in receipt of that salary?—Very little over 30, I suppose—they may have been 33 or 34. I really do not know.

52,449. Taking it that the second division clerks, from whom the staff clerks are appointed, enter at 70*l.* a year, you propose, in order to be analogous with that, that your third division clerks should enter at 120*l.* a year?—May I say that although I signed this petition I had no hand in drawing it nor in preparing these figures in support, and, to my mind, our chief grievance is really the slowness of promotion that will happen.

52,450. (*To Mr. Townsend.*) We have a statement of salaries here. Are there any cases here in which payments are made for work done during official time in addition to the scale of salaries, and in addition to the special and personal salaries of 800*l.* a year paid to Mr. Short and Mr. Stringer. Do you know if there are any other payments made in the office for work done in the office time in addition to salaries?—No, I am not aware of any.

Mr. ROBERT STANLEY OLIVER MAIS (District Registrar and District Probate Registrar, Manchester), called and examined.

52,460. (*Chairman.*) You are the District Probate Registrar at Manchester?—Yes.

52,461. You are also district registrar of the High Court there?—I am joint district registrar with Mr. Crosse.

52,462. How long have you held those offices?—I was appointed on the 25th June 1905, nearly 10 years ago.

52,463. You were appointed simultaneously to both offices?—Yes, I was appointed district probate registrar by Lord Gorell (Sir Gorell Barnes as he was then) and, after being so appointed, by Order in Council I became joint registrar of the High Court.

52,464. What had been your experience before your appointment there?—I had been 17 years in the Principal Probate Registry, 10 years of which were spent as clerk to the registrars, and the last year I had been senior clerk to the senior registrar.

52,465. In which class were you at the time you were appointed to these posts?—In the second class.

52,466. Had you any experience of the legal profession outside before you went into the probate registry?—None whatever.

52,467. At what age did you enter the probate registry?—23.

52,468. You wish to call the attention of the Commission to the staff of the probate registry and of the district registry?—Yes.

52,469. We will deal with the staff of the probate registry first. Of how many clerks does that consist?—The probate registry has seven clerks (six clerks and a chief clerk) and two copyists.

52,451. For instance, are there any payments made with regard to letters of request to foreign countries? Have you any experience of that?—I believe there is some extra pay given by the Treasury to those two clerks who are connected with that work. 15*l.* each a year I think they get.

52,452. Who are those two clerks?—Mr. F. Stringer and Mr. Willson.

52,453. In what department is Mr. Stringer?—In the Writ Office.

52,454. Do you remember who is the head of the Writ Office?—His father, Mr. Stringer.

52,455. (*Mr. Boutwood.*) On the first page of the Representation of the Third Class Clerks, in paragraph No. 2, it says: "Third class clerks in the Central Office have to take their share in the general work of the office," and then it enumerates certain things—among them, "attending the King's Bench Courts and Court of Appeal in the capacity of registrar or associate." Does that mean instead of the registrar or associate?—Yes.

52,456. The third class clerks?—I know that the third class clerks do sit in court to take the position of associates, but I am not sufficiently acquainted with the matter to say whether they sit in the Court of Appeal or whether they sit in the Divisional Court.

52,457. That is as associate. What about the capacity of registrar? Does a third class clerk sit in that capacity?—They do the same work as a Chancery registrar would do; they take a note of the findings and the verdict, and so forth, and they draw the orders on them.

52,458. Then you go on to say that it is "a duty which, in times of pressure, when the number of courts sitting exceeds the number of clerks, is provided for by the engagement of barristers at a fee of 2*l.* 2*s.* per diem"?—That is so. I believe there are a certain number of barristers who are called upon (when there are more courts sitting than there are clerks to sit in them) to sit, and I suppose that is their fee. I have no knowledge of it beyond that.

52,459. And they do no more nor less than a third class clerk does if there happens to be a third class clerk available. They are really in place of a third class clerk?—Yes.

52,470. Those clerks are appointed by yourself with the approval of the President of the Probate Division?—Yes.

52,471. Have many of the existing staff been appointed by you personally?—The last two, Mr. Duckworth and Mr. Hart.

52,472. And they are not pensionable?—As far as I am told none of them are pensionable.

52,473. What is the representation which you wish to make to the Commission on their behalf?—All these clerks are employed in Government work, and do nothing else. The salaries that they are paid are not sufficient to enable them to make provision for their old age, and the consequence is they remain on there practically until they die without being able to retire, owing to their not having sufficient money to retire upon. That does not apply to the chief clerk. I think any man getting 500*l.* a year (as Mr. Wright has got it for many years, having been appointed chief clerk 11 years ago) possibly has sufficient money.

52,474. He would be able to make some provision for retirement?—I think he would. In his particular case I know he has private means, but that is neither here nor there. The other clerks would not be able to provide for retirement. The second clerk, Mr. Lawson, is a man of 71, and he certainly has never had a large salary; he was appointed second clerk in January 1907, at a salary of 230*l.*, and that is the highest salary he has had.

52,475. You propose that they should be made pensionable. Do you also propose that a fixed age should be laid down for retirement?—I think it would be better for the clerks that a fixed age should be

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laid down for retirement, in order to give them chances of promotion.

52,476. What age do you consider would be suitable to lay down?—65 as a limit.

52,477. The ordinary Civil Service rule is that a man may retire at 60 and must retire at 65?—Quite so. The same rule would apply equally in the district registries with advantage.

52,478. Do you consider that the present system of appointment of the clerks is satisfactory?—No, I do not think it is, because it seems to me we do not know where we are quite. Assuming for a moment that the President declined to sanction our appointment of a clerk, I do not know where we should be; we might refuse to appoint, and then there would be nobody there.

52,479. Has any practical difficulty arisen in your experience?—None whatever, because the President invariably sanctions the appointment. District registrars, of course, make enquiries and report to the President what enquiries they have made prior to appointment.

52,480. What do you think would be the best system of appointment?—I should think public examination.

52,481. Open competition?—Yes, open competition—something similar to the Customs and Excise or the Second Class Civil Service Examination.

52,482. You see no objection to that?—None whatever.

52,483. Could a man coming from outside by open competition without having necessarily had any previous legal experience, learn the work of the office easily?—As a junior clerk he could learn it, because they all learn as juniors now.

52,484. Had any of the clerks in your office served in a solicitor's office before entering?—All of them, I think, had served in a solicitor's office. Mr. Duckworth was an articled clerk in a solicitor's office when he was appointed, and had to give up his articles because his father died. Mr. Hart was a junior clerk in the High Court registry when I appointed him. Mr. Openshaw and Mr. Calrow had both had some experience in the Manchester High Court Registry before they came to the Manchester Probate Registry. I cannot tell you the experience of the other one.

52,485. You do not consider such experience necessary?—No. At the present time they do come from solicitors' offices, and nearly all the applications I have had have been from solicitors' clerks.

52,486. Do you consider that the present salaries are adequate and are arranged on a satisfactory system?—I think they are adequate, except that the system of payment would be more satisfactory if increments were given instead of fixed salaries. The junior clerk, I think, might start as low as 65*l.* if he is as young as he generally is—somewhere about 18.

52,487. You think a system of scales of increment would be preferable to the present system of fixed salaries, even if the total expenditure was not increased?—I do.

52,488. Given that the total expenditure was to be a certain amount, you would prefer to have it applied in scales with increments rather than fixed salaries?—Yes, I find it much more satisfactory, and from my experience in the High Court they like these small increments every year in preference to a fixed salary. There is another advantage in regard to this class of man, that if you raise his salary suddenly by promoting him to a large salary, he is rather apt to consider himself better off than he is. I have had experience of that. One man was raised suddenly by about 40*l.* a year, and he thought himself much better off and got into bad ways pretty soon.

52,489. (*Lord Mersey.*) Did he buy a motor car?—I do not think he went as far as that, but he went to equally expensive habits in other ways.

52,490. (*Chairman.*) Turning now to the district registry of the High Court, of how many clerks does your staff there consist?—Six altogether.

52,491. The Manchester registry is the largest in the kingdom?—Yes, it is the largest High Court registry in the kingdom.

52,492. How are the salaries of the clerks in the district High Court registries fixed?—They are fixed

by the registrar himself, and they are submitted to the Lord Chancellor and the Treasury, but they never interfere with them, and we either raise them or lower them as we feel disposed.

52,493. Is there a fixed lump sum out of which they have to be paid?—Yes, of 1,170*l.*

52,494. How is that sum fixed?—It is fixed by request of the registrar. I cannot tell you on what basis, because I do not know. That is a sum allowed to cover clerical assistance, petty cash, copying, and all the expenses of the registry for letters, cabs, or delivery of goods, or anything else—whatever small expenses there are.

52,495. How are those clerks appointed?—By the senior registrar personally. There is no written appointment at all. The clerks are interviewed by myself, at present the senior registrar. After an advertisement has been put in the paper I see all the candidates and select them and see them again, and then appoint the particular man I have chosen.

52,496. In this case also they are not pensionable?—That is so.

52,497. Can they be dismissed by the registrar?—As far as I know they can be dismissed on a month's notice, because we pay them once a month.

52,498. But in practice are they permanent?—In practice they are permanent. I have known no case of dismissal since I have been in the High Court registry.

52,499. Do the observations you have made with regard to pensions for the clerks in the Probate registry apply equally to the clerks in the High Court registry?—Yes, identically.

52,500. These clerks are all whole-timers?—Yes.

52,501. They devote their whole time to the work of the office?—Yes, entirely. They do nothing else.

52,502. If they were given the status of Civil servants and made pensionable, would you suggest an alteration in the method of appointment similar to that which you have suggested in the case of the Probate registry?—Yes, I should say the same examination would cover both High Court and Probate registries.

52,503. In this case also you do not attach importance to previous legal experience?—Here we prefer having a man who has been an office boy, or something of that sort, in a solicitor's office. You cannot say he has had experience there of any sort; he cannot learn from the work he does in a solicitor's office the work he does in our registry.

52,504. What has he acquired as an office boy in a solicitor's office which would be of value in your office?—I cannot tell you, but I am told by the chief clerk that he finds that an office boy who has been a good office boy in a solicitor's office makes the best junior clerk. What particular qualifications he has acquired I cannot tell you.

52,505. Have any men been appointed who have not had that previous qualification?—I think not. I think they have all had it. The ones appointed during my time, the last two, Mr. Holloway and Mr. Webster, both have been solicitor's clerks. Mr. Holloway was a clerk and Mr. Webster was an office boy. Mr. Holloway was appointed because we wanted a man with some experience at that time as we had two vacancies and had to get a man a little older and with more experience.

52,506. It would seem then that the chief clerk's opinion was not based on the experience of both methods?—Apparently not.

52,507. It has been suggested by one witness that, if the clerks in district offices of this kind were not appointed by the registrar and could not be dismissed by him, it would interfere with the registrar's complete control over the clerks and the discipline of his office. Do you attach any importance to that argument?—I think very little. I have heard that stated before. I have known no difficulty myself. I have experience of both sides there, one where there was a fixed allowance and one where the salaries were fixed and the appointment made by somebody else, and I have never found any difficulty on either side.

52,508. It has also been suggested that the result of having local staffs of this kind with a Civil Service status would be to encourage appeals to a central authority on questions of discipline, and, in fact, would

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tend to centralise control instead of leaving it, as at present, localised. Do you attach any importance to that?—None whatever.

52,509. If your staff had the status of Civilservants do you expect that it would encourage them to appeal to some central authority against your decisions in matters of discipline?—I do not think it would at all.

52,510. You do not anticipate any difficulty?—I do not think there would be any difficulty whatever.

52,511. Are you yourself pensionable?—Yes.

52,512. In both capacities?—Yes; and my co-registrar is also pensionable.

52,513. To how many registrars does that apply?—As far as I am aware, only to two at Liverpool and two at Manchester, as regards the High Court. I do not know anything about the Probate Court registrars now.

52,514. When you suggest that your staff should be made pensionable, how far does that suggestion apply? Does it apply to the staff of all the Probate registries, and all the High Court registries?—Only to the High Court registries in Manchester and Liverpool; not to the smaller High Court registries.

52,515. What is the line that you would draw?—I cannot draw a line except this: that the smaller registrars are not occupied the whole time on Government work; they are not whole-timers in any degree.

52,516. You would make whole-timers pensionable and the others not?—I think that should be so.

52,517. In the case of the clerks in the District Probate registries, are they in all cases whole-timers?—I should say not. I do not see how they can be. In registries passing 200, or even 300 grants a year, I cannot conceive how you can say that three men can be occupied the whole day in passing 300 grants in a year. I think it is impossible.

52,518. Would it be the case that in some registries some of the staff would be whole-timers and some part-timers?—That I could not say. At the larger registries they are all whole-timers; at the smaller registries I should say that none were whole-timers.

52,519. It suggests itself to me that there may be some difficulty in drawing a clear line?—I think there would be a difficulty.

52,520. But in principle you would apply your suggestion to whole-timers and not to part-timers?—Yes; but if you had only big district Probate registries it would apply to everybody.

52,521. Your point is that these men are whole-timers employed on Government work, and difficulty is caused at present by the fact that without a pension system it is impossible or impracticable to retire men when they are getting past their work?—That is so.

52,522. And for that reason you suggest they should be made pensionable?—Yes.

52,523. Are there any other considerations which you wish to mention as bearing on that point?—I do not know of any at all. These men complain to me: "It seems to them hard lines that, say, Jones, who is working next door to us, in the Customs and Excise Department, who does not work any longer than we do, and is doing no better work than we are, should get a pension and we do not get a pension. We are working in the same building doing Government work, employed for equally lengthy hours, and we do not get that privilege."

52,524. On the other hand, Robinson, a solicitor's clerk, employed in the same building, works longer hours still and does not get a pension?—He does not work in the same building quite. He has a chance of moving on to something better if he wishes it; whereas a man in a Government office would not be able to move on, because he would not be fitted. A solicitor's clerk might move on to a bigger office, and might get a better salary.

52,525. You were mentioning that in some of the smaller registries the amount of work is very small?—Yes.

52,526. Do you consider that any change would be desirable in the way of abolishing small registries or amalgamating small registries to make larger ones?—From the point of view of the public, do you mean, or from the point of view of the registries themselves?

52,527. From the point of view of the public first?—From the point of view of the public I cannot see that any harm would be done to anybody by the abolition of all small district probate registries. My reason for saying that is that poor people, that is to say, people with small estates under 500*l.* gross, have the privilege, at the present time, of proving their wills or taking out letters of administration through the local Customs and Excise offices, and people with estates of more than 500*l.* can afford to go a little way off to a district probate registry, or they can send their wills to London or employ a solicitor.

52,528. At the present time the situation of the smaller probate registries does not in any way correspond to the centres of population?—No, not in the slightest degree.

52,529. It is a survival, in fact, from the old ecclesiastical conditions, which no longer govern the convenience of the public?—Entirely so. In most cases they are the old registries in the various dioceses throughout England. Those people who were diocesan registrars were generally appointed probate registrars when the court was first constituted, and the registries were in the place where the wills were at that time.

52,530. Are you acquainted with the report of the Legal Departments Commission of 1874?—I cannot say I have never read it, because I probably have, but I cannot identify it at the moment.

52,531. Do you remember that that Commission recommended that something should be done in the way of concentration of smaller registries?—I believe so, but I am not quite sure if I have read that particular report or not. I think I have.

52,532. Can you say what has prevented that recommendation from being carried out?—I think local sentiment. I was on a Commission with a gentleman from the Treasury, Mr. Causton, inquiring into the work of the district probate registries some three or four years ago, and, as far as we could gather, in the case of the small registries the view was purely sentimental, that the local people would not like their wills proved anywhere but in the locality. I do not think there is much in that myself.

52,533. Was that a sentiment on the part of the public generally or on the part of the registrar?—That sentiment was given me by the registrar.

52,534. He might, perhaps, have some prejudice in the matter?—Possibly.

52,535. Had you any indication of a sentiment of that kind on the part of the legal profession?—I did not interview any of the legal profession on that Commission. It was confined entirely to the registrars and their clerks.

52,536. You had no indication of what the views of the legal profession would be?—I cannot tell you at all. The only indication I have had recently is this: I did ask the Secretary of the Manchester Law Society, the day before yesterday, whether he thought the abolition of a fixed place of abode of the deceased and giving each district registry unlimited jurisdiction would be for the advantage of the solicitors and the public, and he said he thought it would be. I recollect he said that in Manchester the larger number of the wealthy residents live in Cheshire, and they would like their wills proved in Manchester; but that may be a mere local opinion—I do not know.

52,537. Under the present system where have they to be proved?—In Chester. At the present time it is a great hardship really on the personal applicants, because in the case of Stockport only, which contains 110,000, all those people who want to prove their wills in person have to go to Chester, which takes four hours, whereas they could go to Manchester in 10 minutes by train. There are numerous other populous districts round there. The same thing applies to Birkenhead and other places.

52,538. Has a Manchester solicitor dealing with a will of a Manchester merchant who lives in Cheshire to prove it in Chester?—Either in Chester or in London. I have a resolution of the Manchester Law Society here, if you like to have it, saying that they think it would be advantageous to extend the jurisdiction.

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52,539. (*Mr. Coward.*) Extend the jurisdiction in what way?—In probate matters.

52,540. (*Chairman.*) To abolish the obligation to prove the will at the registry in the district which contained the deceased's place of residence?—Where the deceased had a fixed place of abode. Here is the resolution (*handing in the same*). It was passed by the Committee of the Manchester Law Society on Tuesday last.

52,541. To what sort of number do you think the registries could be reduced?—I have not really gone into that question at all, but it seems to me that you would have to make a special inquiry into it, because you would have to fix upon centres where the population is big in the first case, or else centres where railway or other facilities for arriving at them were good. Bristol, which is a junction, might satisfy Taunton, Gloucester, and Wells districts; Exeter might satisfy Salisbury and the West of England. So it would not be quite right to say that you would only want the centres of population, because those places are not big centres of population.

52,542. Probably your suggestion would contemplate a considerable reduction in the number of registries?—I should think at least half.

52,543. Would such a reduction facilitate the question of staff?—I think it would facilitate the question of staff if they were going to make these clerks permanent Civil servants, because you would have to have a large access of staff in the bigger centres, and you might give some of those men in the smaller registries sufficiently large clerkships in the bigger ones to satisfy them.

52,544. The question would arise in that case as to the custody of the wills, which are at the present time kept by the smaller registries?—The custody of the old wills, yes.

52,545. What would be the proper solution of that?—I think those might be transferred to London, with great advantage to everybody. I am told that the literary searchers and pedigree hunters, as a rule, congregate in London, and they would find it much easier to search in one place than have to go to numerous places to find out where a particular deceased's will was proved. They are very much mixed up now. For instance, some of the Lancashire wills are at Chester, some at Lichfield, and some of them at Lancaster. All Manchester men's wills are either at Lancaster or Chester, and none are in Manchester at all. I am speaking now of wills before 1857. Some of them, I believe, are even in Yorkshire.

52,546. (*Mr. Coward.*) Or in London?—Yes, part in London, part of the archdeaconry of Richmond wills are in London, and part in Lancaster—part of the records and documents.

52,547. (*Chairman.*) That must make a considerable difficulty in searching?—Considerable difficulty, because you have to search in several places.

52,548. In case a man had several places of residence, it would be necessary to search in several places?—Yes; and at a large number of district registries, where there are ancient documents, they are not properly taken care of, have not been indexed, and are practically useless in their present condition. I know that is so in one or two registries; nobody knows what documents are there.

52,549. A suggestion has also been made that another kind of amalgamation might take place—that in a larger number of instances than at present, the district probate registry might be combined with the High Court registry or the County Court registry, or both. What is your opinion as to that suggestion?—As a rule, I think the High Court registrars and the County Court registrars are always solicitors, and they are the only people qualified for the position. I think if you amalgamate the probate registries with those offices, you would not get sufficient attention paid to probate work. Besides, these men do not know the probate work in the slightest degree. The ordinary solicitor does, perhaps, about 20 cases in a year, and he does not know the probate work. There is not one solicitor in a hundred who knows the probate practice.

That being so, the work really devolves on the chief clerk, and the registrar is in the hands of the chief clerk entirely for his practice. I think that is very bad for the registry.

52,550. You suggest that a man who has had experience in the Central Probate Registry is more suitable for appointment as district probate registrar than a local solicitor?—I think he is more suitable, and I think, as a rule, gives greater satisfaction to the profession in the country. The Secretary of the Manchester Law Society tells me exactly the same thing. As regards that, I asked him yesterday, and he agreed with me that the average solicitor does not, and cannot, know the probate practice. That being so, you want as registrar somebody who does know the practice, and the only men I know of who know the practice are those men who have had experience in the Principal Probate Registry, and they can help the local solicitors very considerably. For instance, take the questions on the Finance Acts: a solicitor will not know anything about those, as a rule, and he can get great assistance from the local probate registry on that point.

52,551. (*Mr. Coward.*) Solicitors have to know a great deal about the Finance Acts?—They ought to know, but they do not know, as a matter of fact. You would be surprised to know the number of gentlemen who ask me questions on the Finance Acts every week. You must remember that there is nobody in country places who knows anything about the Finance Acts, because the Customs and Excise officers in the country know nothing about estate duty at all, and so they have to rely entirely upon the probate registrar for guidance on the Acts as regards probate and estate duties.

52,552. (*Chairman.*) You were appointed simultaneously to the registrarship of the High Court and the district probate registrarship?—The Probate registrar becomes automatically the High Court registrar in Manchester under the Act of Parliament. It says: "The district registrar of the Probate Court is hereby appointed to be joint registrar of the High Court." It is a kind of automatic appointment.

52,553. Your previous experience had been entirely in the Principal Probate Registry?—Yes, in the Probate and Divorce registries.

52,554. How did you deal with the work of the High Court registry? Did you find any difficulty without previous experience of the matters concerned?—I had experience in so far as a clerk who is working with the registrar has. I had been for 10 or 12 years assisting the registrar, both in chambers at the principal registry and also in judges' chambers where summonses are heard, and in court, so I had all the experience of the general run of actions. Therefore I knew practically what all the chamber work was in the King's Bench, and I knew about taxation.

52,555. Did that experience give you knowledge of Chancery practice?—No, it did not; and as a matter of fact for the first 8½ years that I was in Manchester I did only King's Bench work. The senior registrar at that time, Mr. Watts, was doing Chancery work when I went there, and continued to do it after my appointment, and I did the whole of the King's Bench work.

52,556. (*Mr. Coward.*) Without difficulty?—Well, I cannot say without difficulty, because it entailed a certain amount of reading as well; but the practice I had had and the experience I had had with the registrars in London facilitated matters considerably, because I knew, for instance, what was a summons for particulars, and what taxation meant, and so on. I knew the principles and I had only to apply them.

52,557. (*Chairman.*) You had at once then to do the work that a master does in London?—That is so.

52,558. We have been told that long experience at the Bar is essential for the due performance of a master's work?—Not at the Bar, surely? Do you mean the masters in London?

52,559. The masters of the King's Bench in London?—Of course I cannot speak of the work of the masters in London, because I have not done it.

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52,560. (*Mr. Coward.*) You have exactly the same work to do at the Manchester High Court registry?—I think I have. I have come to that conclusion.

52,561. I do not see what difference there is?—Perhaps you have more experience of the master's work in London than I have. I do not know, because I have not been in chambers there.

52,562. The work goes on in the district registry precisely as it does in London in the cases that are commenced locally?—I am told it is identical.

52,563. (*Chairman.*) And you found that you could deal with that work?—I have dealt with it; and, so far as I know, no complaints have been made. There were grave complaints made when I was first appointed, but I have heard of none since then. I have here a statement of the statistics showing what the work in Manchester is, if you would like to see it. (*Handing same to Mr. Coward.*) It is a yearly return.

52,564. (*Mr. Boutwood.*) Mr. Goodier is one of the clerks in the Manchester district registry of the High Court?—Yes.

52,565. Does his position in respect of pension differ from that of his colleagues in any way?—It is identical. They are none of them entitled to pensions.

52,566. There is nothing peculiar in Mr. Goodier's position?—Nothing peculiar. He is the third clerk.

52,567. (*Mr. Graham Wallas.*) Do you think that where a provincial registry of any kind is fully occupied, the clerks and officials there being fully occupied with professional work, it would be desirable that they should become Civil servants?—Always. I think they ought to be.

52,568. You think the office ought to be staffed from top to bottom by Civil servants?—Yes.

52,569. The main difficulty in the way of that is that there are a certain number of registries where the work takes only part of the time of the registrar and his clerks?—Yes.

52,570. You suggest that that difficulty might be got over, as I understand, by diminishing the number of such registries, and increasing their area and their work?—That is as regards the Probate registries. I have not referred in that to the High Court registries at all.

52,571. You secure a greater amount of work, and therefore there is greater steadiness in the work if you can combine in one office several different kinds of work?—You do not get the same efficiency in the Probate Department, which is important to some extent, if you combine the three offices, as you do if you keep one man doing one job properly.

52,572. But in your case you are doing both Probate work and High Court work?—I am.

52,573. Is it not conceivable that we might with care find other people who, with proper practice, might be able to combine the work as you have combined it?—Yes, it is quite possible.

52,574. If that difficulty could be got over, you would see certain advantages?—Clearly.

52,575. If the country were so divided that there could be a single provincial administrative legal office, in which the work of the Probate registry, the County Court registry, and the High Court registry could be concentrated?—I do not think you could find anybody in a big centre who could possibly combine those three offices together properly.

52,576. But in a department in a legal office they could be combined?—In a small one it is possible they could be combined, but not in a big one. It would be impossible at Manchester to have a Probate Court, High Court, and County Court man to do one job—absolutely impossible.

52,577. In the Board of Trade, for instance, it is quite impossible to get somebody to do both the shipping work and the census of production work, or various other kinds of work, but it is possible to organise an office so that all these things could be done in one place and under one general system?—No, I think the work which has to be done by a registrar, to be done properly in either the High Court, County Court, or Probate Court, must be done by the registrar in person—the greater part of it.

52,578. And you do not think it possible to have one area served by the different kinds of registrars and perhaps one office in which they should sit, as they do in London?—The County Court is not the same in London.

52,579. But there might be one registrar for several different County Courts?—That is the same class of work, and it would be only the question of the quantity of work. That is all right; but if you get a large registry combining the High Court, County Court, and Probate Court work, it is impossible to get all the work done efficiently. You must sacrifice either the Probate Court part, the High Court part, or the County Court part, in order to get it efficiently done by one man.

52,580. But would it not be possible to have three men there, as you have in the Law Courts in London, or two men sitting in one place and using the same clerks, messengers, and so on?—That may be more possible, but at the same time it is difficult also. Take the Chancery work, the whole of the Chancery work must be done by one man either in the country or in London. He must follow it out from the beginning to the end, and have cognisance of it all the way through. As regards the High Court work it is better—I will not say it is necessary there—to have the same man, because frequently one finds that a certain matter is adjourned, and perhaps the other registrar is engaged at the time it is adjourned to, and his colleague could not deal with it.

52,581. But there is no objection to their sitting in different rooms off the same passage?—As long as their work is defined; but then you come back to exactly the same position as now, if you are going to keep them as separate courts all in one office, except, possibly, as regards the staff. The staff, to my mind, could not possibly work with one another. The Probate staff could not work with the High Court staff. I do not know anything about the County Court, but I should imagine that it would be impossible for the High Court to work with the County Court; they are diverse.

52,582. In spite of the fact that it has been so successful in Manchester?—We have separate staffs entirely; the staffs have nothing to do with one another.

52,583. But you are Probate registrar and also registrar of the High Court?—Yes.

52,584. Does not that involve in your case an amalgamation of the two?—It does involve an amalgamation of the two, and I think it works in our particular case because the two registrars get on very well together; but if they did not get on very well together it would not work, and it has not worked in the past owing to disagreements. I think in our case it is extremely hard. Here am I appointed joint registrar of the High Court Registry and I am district Probate registrar. We cannot divide the work evenly. If I take my half share of the High Court work I am doing more than I am paid to do. As a matter of fact, I do more than half, because I do the whole of the Chancery work and very often assist in the King's Bench; but, if one looks at the salary and the way in which the Treasury have allocated it, they give me 800*l.* for the Probate Court work and 200*l.* for the High Court work. I am paid 200*l.* a year for doing what my colleague is paid 1,000*l.* a year for. Either one or the other is wrong.

52,585. Putting aside the question of the combination of personnel, you might have the same areas for the High Court work and for the Probate work?—Subject to what I said before, that the High Court registrar, as a rule, is not a man who can deal with Probate work efficiently.

52,586. A combination of areas, but not the same personnel?—There would be a larger number of High Court registries in England than there would be Probate registries under my scheme. I suggest that there should be only, perhaps, 15 or 20 Probate registries pure and simple, staffed and used only for Probate work.

52,587. Would you have three areas or two; a larger area for the Probate registry and a smaller area for the High Court registry? Would that

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smaller area correspond to the County Court registry?—There is no limit of jurisdiction in the High Court registries at all. You can come to my registry and issue a writ for any part of the country you like; it makes no difference. The only difference arises when you come to enter the appearance afterwards. You can use any High Court registry at the present time. My suggestion is that you should be able to use any Probate registry.

52,588. (*Chairman.*) How many district registries of the High Court are there?—I cannot speak right offhand, but I should say 60, 70, or 80. Nearly every small town has a High Court registry. They do not do very much work, but they can issue writs, and after that the matter can be transferred to London or somewhere else. They have that advantage.

52,589. (*Mr. Coward.*) It may or may not be transferred?—Quite so.

52,590. If the solicitor for the defendant enters an appearance in London then it is transferred, otherwise it would continue in the district registry?—Yes, otherwise it would continue in the country. The majority of the High Court registries do not have very much jurisdiction. Liverpool and Manchester have full jurisdiction, the same as London; they can issue originating summonses, do all the taxation, and everything else. The other High Court registries are practically limited to the issue of writs, the hearing of summonses under Order 14, and a few interlocutory summonses, but very few, and taxation is practically nil.

52,591. You do not think any diminution or alteration in the number of registries or of the places is desirable except in the case of Probate registries, which you want to be reduced in number and put in convenient centres of population?—There is no reason for reducing the number of High Court registries. I am told they do not cost the country anything, because the registrars are paid by fees in the smaller registries, and if they do not get the fees they do not get their salaries. As regards Probate registries the country is put to expense, and I think it would be saved expense by the reorganisation of all of them.

52,592. (*Sir Donald MacAlister.*) You recognise that if your whole-time staff were made pensionable and put on the establishment, the present system of appointment and recruitment of the staff could hardly remain?—No; my suggestion is that there should be entrance by open competition.

52,593. What age of entry have you in mind when you suggest open competition?—Not younger than 18 and not older than 24. I should think that would be a very fair age—the younger the better.

52,594. So that the open competition might be in subjects of general education, pure and simple?—Yes, about the same standard as you get in the second division of the Civil Service. The clerks are generally about the status of a solicitor's clerk in the country—a very good sort of man. Otherwise you might make it a branch of the principal registry and appoint them under the same system as they do now, or the same as the Bank of England do in their branches.

52,595. (*Sir John Kempe.*) If you had open competition do you think you could introduce the system they have in the Post Office? I understand that in these registries a great number are not fully occupied with Government work?—In the small district probate registries.

52,596. In a country post office a local tradesman is made postmaster, and when his work gets heavier he gets supplied with a trained clerk from the head office?—Yes.

52,597. Would there be any objection to that system?—At present, I think, they have more staff than they need in the small registries. You must have two men there—a chief clerk and one other clerk—and that is the minimum number in the small registries.

52,598. Those two men would be occupied partly in solicitors' work?—They ought not to be, but they are, I believe. They are not supposed to be utilised by the solicitor for his work at all.

52,599. I thought the registrar employed his own clerks for the work of the registry?—As a matter of

fact they do, out of hours, get other work from solicitors or somebody else.

52,600. Is there no case where a registrar who is a solicitor employs his own clerk now and then to do the Government work?—The Probate registry clerks are there at present when the local solicitor is appointed registrar, and he cannot very well dismiss them. They are probate clerks, and possibly, if there was a vacancy, he would put one of his own clerks in. When he is appointed he takes on the old clerks.

52,601. I did not understand that?—In some cases, I do not know whether it is so now, the registries were in the office of the solicitor who was registrar and owned by the late registrar, and of course that necessitated the new registrar being practically the successor in the office of the old one.

52,602. Does the Government lump sum provide buildings, offices, coals, lighting and so on?—Yes, it provides everything.

52,603. Besides the clerks it provides all the stationery?—It provides coal, stationery, and so on, and in fact in the Probate registries there is no petty cash of any sort. We are not allowed anything for letters. If I write a letter to anybody I have to pay for it myself.

52,604. (*Mr. Matheson.*) Do not you think that 18 to 24 is rather too wide a range of years for an examination of that kind. Would not 18 to 20 be better?—Yes; as a matter of personal opinion I put 24 as the limit.

52,605. You would not object to making it 18 to 20?—I would have no objection whatever; I think the younger the better.

52,605A. (*Mr. Coward.*) The business done in your registry is very extensive?—Yes, very extensive.

52,606. I see the total number of summonses issued in one year on the King's Bench side was 3,748, and the amounts recovered by judgments came to 128,619l.?—Yes.

52,607. That shows that there is a great deal of work?—It is a very big registry. There is no doubt whatever about that.

52,608. (*Chairman.*) I see that the salaries of the district probate registrars appear not to correspond at all to the amount of work?—That is so.

52,609. There are very large inequalities?—Yes.

52,610. Taking an instance and comparing Exeter with Durham, the salary at Exeter is 1,000l., and the number of grants is between 1,100 and 1,200; whereas the salary at Durham is 500l., and the number of grants is over 1,700?—Yes.

52,611. That is to say, there are half as many more grants at Durham, but the salary at Durham is only half the salary at Exeter?—Yes.

52,612. What is the explanation of those inequalities?—I really could not tell you. These salaries were fixed about 1865 or 1867, and have never been altered since, except so far as they have been reduced in one or two cases. They have never been increased. In spite of the fact that some of the larger registries, of course, were only just in their youth then, the salary was fixed at that time and has never been altered. The districts in various industrial parts have increased, and that is why the registries at Durham and Manchester, I should think, and possibly Birmingham, have increased so much.

52,613. It would seem that some readjustment is required?—Clearly. Llandaff is, I think, a case in point, where the salary is only 350l.

52,614. And where the number of grants is greater than that at Exeter?—Much greater. Exeter has stood still; it passes the same number of grants now as it did 40 years ago. One finds that in all districts where they are not industrial the number of grants is absolutely stationary.

52,615. (*Sir John Kempe.*) The sum allowed for clerks in Durham is much larger than that allowed in Exeter because the work is greater?—The Treasury allow an increased clerical staff, but do not increase the salary of the registrar.

52,616. (*Chairman.*) Do the registrars derive any income from what is called "agency business"?—Yes, in some cases.

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52,617. What is the nature of that business?—That is a survival of the old practice which was in vogue before the Probate Act of 1857 came into force, where local proctors were allowed to settle, and always did settle, all the papers to lead to grants of probate. Then they also received by post papers from the solicitors living outside the town, and received papers locally sometimes from the solicitors who did not know how to draw them and wanted them drawn up by somebody who did know, thereby saving the clients the trouble of attending the solicitors on two or three occasions to have the papers corrected after they had been sworn. That practice has survived, and the Probate Registrars have always been allowed to receive, in respect of papers which they receive by post, or which are lodged locally, fees for settling the papers, and for sending them back by post after paying the duty in London, and so on, and also for correspondence of any sort that they have to conduct, partly on the ground that the Treasury make no allowance for correspondence.

52,618. Do those fees amount to any considerable sum in some cases?—I am afraid I cannot give you very much information on that point. In Manchester those fees come to somewhere about 120*l.* a year, but I am told that in other registries they are considerably in excess of that. In fact, I should say that they would probably be 300*l.* or 400*l.* in some cases, but I do not know. I cannot tell you because they are private accounts and are not within my knowledge.

52,619. Are the fees according to a fixed scale?—No, they are fixed by the registrar personally in each case. There is a scale which has been adopted by the association, but it is not binding on anybody.

52,620. Do you consider that there are any objections to that system?—I think very grave objections. I think it ought not to be allowed at all.

MR. CHARLES HENRY MORTON, Honorary Secretary of the Associated Provincial Law Societies, called and examined.

52,623. (*Chairman.*) You are a solicitor practising in Liverpool?—I am.

52,624. Are you President of the Incorporated Law Society of Liverpool?—I have been President of the Incorporated Law Society of Liverpool, and I am a member of the Council of the Law Society in London.

52,625. What is your relation to the Associated Provincial Law Societies?—I have been for some 25 years the honorary secretary of the Associated Provincial Law Societies, and am still.

52,626. Will you tell us what the Associated Provincial Law Societies is?—It is based very much on the same lines as the Associated Chambers of Commerce. The societies number about 56. Almost all the country law societies are members of the association, and they meet from time to time to consider matters which more especially affect the provinces as distinguished from the metropolis, though on any subject which interests the profession as a whole they usually confer with, and lend their aid and influence, such as it is, to the head society.

52,627. Your evidence is given on behalf of that association?—I give my evidence at the request of the association, and on their behalf.

52,628. Are you also a member of the Rule Committee of the Supreme Court?—Yes, one of the two solicitor members.

52,629. Were you also a member of the Royal Commission on Delay in the King's Bench Division?—Yes.

52,630. On that Commission you had to examine in some detail the question of the procedure of the courts?—Yes, along with other members.

52,631. The first point on which you have evidence to offer to the Commission relates to the offices of the district probate registrar and the district registrar of the High Court?—Yes, I have been asked to point out the undesirability of the promotion of a clerk from the probate registry in London to the position of district probate registrar, and from that office to that of the registrarship of the King's Bench, Chancery and Admiralty Divisions. At the present moment under the

52,621. What suggests itself to me is that an unscrupulous registrar—if such a person exists—might create difficulties and cause correspondence for the purpose of getting fees?—The danger also is this: All the work, I may say, is not done in Government hours, but is done outside the registry. The papers are received at the registry but taken home and settled there, so that the work is done outside Government hours altogether, or should be—that is the principle; anyway, in Manchester they are always taken home. The chief clerk might make demands that the registrar knows nothing about. Besides, I think it is a very invidious position for the registrar to be in; but at the same time it is a very great convenience, I am told, for solicitors to have their papers settled if they want them. It is purely voluntary work.

52,622. Is any work of that kind done at the central registry?—None whatever. The only papers settled at the central registry are with regard to special points, and there is a special fee for that in the list of fees. There is no fee for settling and no paper is settled; in fact, they will not look at any paper that is not sworn, so the solicitor has to take them in duly sworn, and if they are wrong, take them back again and correct them. Whereas in the country, if a solicitor has something special, he brings it to the registrar and pays a fee to have it settled. Frequently in the morning I see people who come in and ask me if an affidavit is in form, and I tell them whether it is or is not. I do not settle it for them. I look through it casually and see if I think it is right. I think it is bad for this system to go on, but at the same time I am told by the profession that a lot of them like it, and as it is voluntary they do not see any reason why it should be abolished. That may account possibly for some of these other registries making a difference in the way of salary by reason of the agency—so I am told.

Act of 1858, a clerk from the Principal Probate Registry in London is eligible for the office of district probate registrar; when the Judicature Acts were passed the staff and work of the old Probate Court was transferred to the Probate Division of the High Court. The Judicature Act provided that the district probate registrar should be eligible for the position of district registrar of the King's Bench Division and other divisions of the High Court. The work of the staff of the probate registry in London is principally what lawyers call "common form." Very seldom any legal question of moment comes before the clerical staff, and if there be such a question the parties are generally referred to the judge to dispose of it. The district registrars of the King's Bench, Chancery, and Admiralty Divisions of the High Court occupy in their respective districts the position of masters of the High Court in London; they act as masters, registrars, and taxing-masters of the King's Bench and Chancery Divisions, and they exercise (with some exceptions on the Chancery side), all the powers of a judge in chambers which are exercisable by a master; they also act as registrars in Admiralty and as registrars in Companies Winding-up.

52,632. I observe that you do not mention Bankruptcy. Have they any powers in Bankruptcy?—The Bankruptcy business generally goes to the County Court in the country. Companies Winding-up business, which is, of course, somewhat similar in principle, falls to the district registrars, but almost all the private bankruptcies are dealt with through the County Court. The powers of some of the district registries are not so full as those of the Liverpool and Manchester District registries, but matters of the gravest importance come before all the district registrars involving the determination, not only of questions of fact, but intricate questions of law and practice. The association which I represent submit that such exceedingly responsible positions should be filled by a skilled lawyer, not only well versed in legal and equitable principles, but thoroughly experienced in legal practice. The experience of a clerk in the Probate Division is a limited one; the greater part

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of his work may be termed "common form." It is rarely that he is called upon to adjudicate upon any legal point. These clerks, although capable as Probate Division clerks, are, we submit, wholly unfitted for the position of a district registrar of the other divisions of the High Court. The latter officer must be a good lawyer, conversant with the law of evidence, and able to deal with important questions arising on originating summonses, interlocutory and other proceedings in actions, in winding up companies, working out accounts and inquiries, dealing with wards of court, and administration of estates, and taxing costs. On the Admiralty side the district registrar conducts *inter alia* references for the assessment of damages in collision cases between ships, frequently involving questions of demurrage and other difficult items. It can be no more expected that a clerk in the Probate Division could, without proper legal education, wide experience, and long training, satisfactorily fulfil the above duties, than he could conduct research and formulate conclusions in a cancer institute. The district registries are branches of the High Court, and a district registrar corresponds to the master in London, but Probate Division clerks are not eligible for the office of master in London.

52,633. The question to which you refer arises, I suppose, in cases where the High Court district registry and the district probate registry are held by the same person?—That is so. Take, for instance, the case of the City of Manchester: A gentleman from the registry in London was made for a day or so district probate registrar in Manchester; that promotion was correct, and I do not know that any objection can be taken to it had he not been forthwith translated to the then vacant office of district registrar of the other divisions.

52,634. Is it the case that by statute at Manchester those two offices must be held by the same person?—No, not necessarily. They have twice been held by the same person since the Judicature Act. In Liverpool they are held by the same person, but that is done, I believe, at the instance of the Treasury, who desire to save salaries.

52,635. We were told this morning, if I am not mistaken, that at Manchester the combination of the two offices is statutory?—It is authorised by statute, but it is not necessarily so.

52,636. It is authorised, but not obligatory?—For instance, Birmingham has a separate probate registrar, so has Bristol, and in both those cities there are district registrars of the other divisions who are independent.

52,637. You say the statutory position is that combination is permissible but not obligatory?—Yes, not obligatory.

52,638. Are there any other cases in which the offices have been combined?—I do not know of any. No doubt there are one or two. It is the principle that I am asked to object to here, because it might be applied to every town. There is no reason why it should not occur, and recur, in every town whenever a vacancy happens in the district registrarships of the King's Bench Division.

52,639. The point of my question was this, I wished to ascertain whether the combination had been made in more than one case, and if so, whether practical inconvenience had arisen from it. In the one case to which you refer, that of Manchester, has practical inconvenience arisen?—It would be difficult for me to give that evidence. I have no doubt certain litigants would tell you, if the district probate registrar decided *against* them, that it was a very serious inconvenience.

52,640. You mentioned that Admiralty work was a special kind of work with which a district High Court registrar might be called upon to deal?—Yes, it is rather special.

52,641. Is there any Admiralty work in Manchester?—Some, but not so much as at Liverpool.

52,642. On referring to the official statistics I find in the year to which they relate, 1913, there was no Probate, Divorce, or Admiralty work at Manchester?—There might be Admiralty business in chambers, which might not appear in the judicial statistics.

52,643. And there might be some in other years?—There might be work going on in chambers and an action

might easily be settled or compromised; I do not think that would appear in the judicial statistics.

52,644. These are the statistics of proceedings commenced?—Not of matters tried.

52,645. There were no proceedings whatever commenced on the Probate, Divorce, or Admiralty side?—I am not surprised that the Manchester solicitors prefer to institute proceedings in Admiralty in London or in Liverpool. If there is an accident in the Ship Canal or in the Salford Docks, it could come before the Manchester district registry if the parties wished, but they would not necessarily wish.

52,646. The point you wish to put is the point of principle. You think the previous experience of a clerk in the Central Probate Registry does not qualify him for the work of a district registrar of the High Court?—No, it does not qualify him at all.

52,647. What is the statutory qualification, apart from having occupied the position of district probate registrar?—A solicitor of five years' standing. At the time of the Judicature Act there were certain provisions made by which the registrars of some of the inferior courts were eligible, and the registrar of a County Court is eligible, but they must be solicitors, so it comes to the same thing.

52,648. Five years' standing as a solicitor would not necessarily imply any very extensive experience of the law?—Not necessarily; but, in fact, district registrars are generally chosen from leading solicitors, and in most of the towns they are allowed to have private practice, so that a very good class of man generally occupies the position.

52,649. You have also some observations to make as regards the masterships of the High Court?—The Chancery masters must be solicitors; the King's Bench masters may be solicitors or barristers. In practice they are always barristers, and we do not quite see why a solicitor should not be appointed to vacancies on the King's Bench side, inasmuch as his training and qualifications equally fit him for a mastership of the King's Bench as for a mastership on the Chancery side.

52,650. There is nothing at present to prevent the appointing authority selecting a solicitor, if he thought him a suitable person?—No; but for some reason they never do, and we think it unfair that on no occasion is a solicitor appointed. I believe once there was a solicitor master, but I do not remember it myself. I do not think it reasonable that those offices should always go to the other branch of the profession, if equally capable men can be found in the solicitors' branch of the profession.

52,651. On the other hand, you would confine the Chancery masterships, as they are confined at present, entirely to solicitors?—The Legislature has done that for good reason. The technical training of a solicitor fits him for the particular work of a Chancery master; whereas the training of a barrister does not fit him, certainly for a great deal of the work.

52,652. Would you also confine the taxing masterships entirely to solicitors?—I think you must. It is one of the most difficult things to tax costs fairly; and it is only a man who has spent a great deal of time in learning the practice and procedure of an action that can do it, and judge what costs should be allowed and what disallowed (which is the more difficult). It wants a man who is trained to it; it is quite an expert's work, and requires great experience.

52,653. There have, I believe, been instances of taxing masters who were barristers?—I believe now they are all solicitors; but I am not quite sure on that point. Some solicitor-witness from London would know better than I do. In the district registries the registrar is always the taxing master, and he is always a solicitor, except as I have already mentioned.

52,654. Have you any observations to make on the subject of the position of the clerks in the district registries?—It is one of the little troubles in the provincial towns, that the clerks remain, not only in the Probate registry, but in the other registries of the High Court, and in the County Court, too long. They have no retiring allowance or pension, and their pay is a moderate pay; and it is very difficult for them out of their moderate pay to live respectably, and to save a

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competency for their old age. The result is that they remain on long after their full period of usefulness; they become crabbed and slow, dilatory and forgetful.

52,655. You have known instances in which that has happened?—Yes, I have. Still, no one would like to initiate any movement for their removal, least of all their principal, the district registrar, because they have been good and efficient servants in their day, and their only offence is their failure from physical or mental infirmity; so, to use a vulgarism, they “hang on.”

52,656. Does that apply to the County Court?—Yes, it applies to all registries. If there was a retiring allowance or pension, there is no doubt that the district registrars, or registrars of County Courts, would take steps to remove, or ask for the resignation of, some elderly clerks, in order that their places might be supplied by younger and more efficient men.

52,657. If there was a system of pension it would be easier to fix a limit of age for retirement?—There might be a limit of age; I do not think a very low limit—perhaps 65; but I think that that should be the outside. It might be better to put it at 60.

52,658. What happens in similar cases in solicitors' private offices?—I think we gradually supersede a clerk by employing other clerks and making the old clerk believe he still does his work, but we take care he does nothing important.

52,659. He continues to draw his pay?—Yes, but he must not do anything, because the more he does the more he annoys you and disturbs your clients.

52,660. In your experience, do solicitors ever pension their own clerks?—Yes. When health breaks down completely and when physical infirmities become great, then it is a common practice with all the good firms, I think, to an old servant, at all events, to give a pension, but it is not necessarily his full wage.

52,661. But there is no regular system of pensions?—No system; I think some very large offices have a scale of pensions.

52,662. Is there any provident or pension society that the solicitors' clerks belong to?—There is in some of the large towns. There is one in Liverpool.

52,663. Do most of your clerks belong to it?—Yes; I ask them to do so, and, I think, all do; at all events those above 25 years of age, but probably not some of the junior ones.

52,664. Do you see any reason why there should not be similar societies among County Court clerks and the clerks of district registries?—They certainly ought to have one, but it would be better that the State should do it, even if by annual assessment of their pay. That is the most effectual way. You have always a certain number of clerks who live up to their incomes, and who are not thrifty and will not save, but who are admirable workers although careless about their own affairs.

52,665. From the point of view of efficiency of the office you think it important to provide means for enabling clerks who are past their work to retire?—I remember in the Chancery of Lancashire that one of the registries suffered greatly by the tiresomeness of the old clerks who could not do their work and got so “crusty,” that the solicitors' clerks would not go near the place. Eventually the matter was brought to the notice of the Chancellor of the Duchy, and they were removed, on pensions I believe.

52,666. Do you find that, generally speaking, the work of the district registries is done in a satisfactory and business-like manner?—They are most efficient and exceedingly prompt. I cannot speak as to the whole of the district registries, but I speak of those I know.

52,667. Do you apply that both to the Probate registries and the High Court registries?—The work of the Probate registrar is quite simple; he simply looks at the papers, sees they are in order, posts them to London; they come back in about a week, and you call for the probate; he sees that the affidavits are correctly sworn and in proper order, and so on.

52,668. The Commission had some evidence upon a point on which I should like to ask your opinion. There are at the present time a considerable number of probate registries, some very small in size and in the amount

of business done. It has been suggested that it would be for the convenience of the public, and would probably result in economy, if the smaller registries were abolished or amalgamated, and a smaller number of registries were maintained coinciding more than they do at present with the large centres of population. A change of this kind was originally recommended by the Legal Departments Commission of 1874, but nothing has been done since. What is your opinion on that suggestion?—If I may give my personal opinion—I should not like to pledge the association, of which I am the secretary, because it is not a subject which I have discussed with them, and I could not bind them—my personal opinion would perhaps incline to the merger of the Probate registrarship with that of the district registrarship of the other divisions, in order that the district registrars of the other divisions should relinquish private practice. I think if the salaries of the two registrars were merged into one office, then you might be able to find a gentleman to take the position who would be willing to relinquish his private practice; it is not very desirable that an officer of the court should continue in private practice.

52,669. You would prefer that a larger number of registrars should be whole-time officers not doing any private practice?—Yes. The principle that the district registrar should be also practising is a bad one; he cannot help coming in contact with his brother solicitors in litigious and controversial matters, and at times it reacts in the registry. Suppose you had a bitterly-fought action with A B, and A B comes before you to-morrow in your position as judicial officer, it is a very difficult position in which to keep an even balance; you have just had friction with A B, and there is a sub-consciousness that you do not like that man. I think it would be in the interests of suitors if the district registrar of the King's Bench surrendered his private practice. The Treasury might object to that, because the present salary would not be sufficient, but if the salaries of the Probate registrar and the King's Bench registrar were merged, then it would be possible to do what I have suggested.

52,670. Your suggestion is that the district Probate registry should in all cases where one exists be attached to a district High Court registry?—As they fall vacant, certainly I think they should. I think that that proposal would be universally commended by all the law societies, but I think some of the country law societies would vehemently protest against the extinction of their local probate registries unless they got some advantage of that kind.

52,671. Does the existence of a probate registry in the smaller places really confer any advantage on the public or the profession?—A little, particularly on some of the public—the small estates of 200*l.* or 300*l.* The people come themselves, and the registrar gives them certain assistance; he is permitted to do so, and no solicitor intervenes at all, so it is an advantage in that way.

52,672. You are aware that the local officers of Excise are authorised to give assistance, and to send up papers for personal applicants?—That is for the purposes of collecting duty, yes.

52,673. They also give assistance for the purposes of probate?—I know they can do it. I do not know whether they do it to any extent.

52,674. You may take it from me that they do it to a considerable extent, as there are a considerable number of grants of that kind?—I know they have power to do it.

52,675. Would not the extension of a system of that kind take the place of such convenience as may be afforded by the small local registries?—Certainly, if the local Excise officer can do it.

52,676. At present the number of High Court registries is considerably larger than the number of Probate registries?—Yes, I should think it would be.

52,677. But you would not suggest that the number of Probate registries should be increased?—No.

52,678. But rather that where they are maintained they should be attached to the district High Court registry?—Yes.

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52,679. The High Court registry is, in many cases, combined with the County Court registry?—In most cases.

52,680. You would not see any objection to their being combined?—Not at all; on the contrary, I think it would be a public convenience to have them all under one roof.

52,681. It has been suggested to us that, in at any rate the larger places, it would be impossible for one registrar to do the work of the three?—Yes, I should like to make that clear. It would be impossible in a place like Birmingham, for instance, and Manchester, and Liverpool. I do not think it could be done there, the County Court business being so large.

52,682. How would you treat a case like Birmingham or Manchester?—It could be done by making joint registrars.

52,683. You would have two or more joint registrars?—Yes, in the large places, as is done in Liverpool and Manchester.

52,684. Leaving them to distribute the work among themselves as they like?—Yes, it works most conveniently, especially in vacations, absence from illness, and the like.

52,685. You do not see any inconvenience in it, and the person who under your suggestion would be appointed to these joint registrarships would, necessarily, be a solicitor?—He would.

52,686. He would not have had previous experience of probate registry work?—He might not, but it is so simple that a clerk could do it.

52,687. You do not anticipate any difficulty?—Not the slightest.

52,688. You regard the Probate part of the work as very much simpler than the High Court part of the work?—It is what is called "common form." It is so simple that a month or so's tuition would be sufficient. If there is any doubt at all, the district registrar sends the papers to London for the principal registrar's opinion.

52,689. At the largest places—Manchester and Liverpool, for instance—the County Court registry is separate?—It is.

52,690. Would you maintain that separation or not?—That involves the rather large question of the merger of the County Court and the High Court, which is a very old subject. I have always held the opinion that the County Court should be an inferior branch of the High Court, and, of course, if that were done it would solve many of these minor questions. To-day, in practice, the two registries are kept separate; although the same man may hold both offices his books, accounts, &c., are separate. The registries, however, are usually under one roof.

52,691. And the staff of clerks whom he employs with two kinds of work are quite separate?—I would not like to say they are entirely separate, because there is, no doubt, some very clever clerk who would do both classes of work, but broadly speaking they would be separate.

52,692. Does inconvenience arise at present from the limit of territorial jurisdiction of the probate registries?—I think it is absurd. I do not know the extent of the inconvenience, but, as an illustration, take my part of the kingdom—Liverpool and Birkenhead for practical purposes are one city; if I die in Birkenhead my executors may prove the will in Chester, but not in Liverpool, whereas all my interests are in Liverpool, and my executors and solicitors are in Liverpool; it is indefensible that the probate should not be taken out in the most convenient place. I do not care where it is. I might die in Liverpool, and it might be more convenient to prove my will in Hereford if my executors and my solicitor were there. There is no virtue in proving a will on the spot where I die. I would make every probate registry capable of accepting for probate the will of any person wherever he died or lived. You may be quite sure that the parties would go to the most convenient point if they are allowed to.

52,693. In that case a registry that was in an inconvenient position would die a natural death?—Yes, it would, and what harm? If there is no work it ought to die.

52,694. You are a member of the Rule Committee of the Supreme Court?—Yes.

52,695. A suggestion was made to us by one witness that there would be advantages as regards the organisation and the working of the offices of the court if the Rule Committee was assisted by masters or other representatives of those offices which are familiar with the detailed working of the rules. He suggested even a sub-committee composed of persons of that kind for the detailed working out of the rules?—I think there ought to be a King's Bench master and a Chancery master, at least, on the Rule Committee. Some people think there should be a taxing master on the Committee, but questions of cost on the Rule Committee are comparatively rare, and perhaps the taxing master might be dispensed with. There might be a registrar of the Probate, Divorce, and Admiralty Division, though those questions are comparatively rare. But, for some reason, the Rule Committee have not favoured the addition of masters. I believe the idea is that they would always be wanting to propose changes in the procedure of the courts.

52,696. In fact they know where the shoe pinches?—They know where the shoe pinches, and some of them, perhaps, aim at a policy of perfection, which is unattainable. I know it is the feeling of some of the members of the Rule Committee that it is a lesser evil to exclude them. I am not quite so sure. The evil of allowing imperfections in practice and procedure to remain—and we practitioners feel that evil very much—is far greater to my mind than the evil of trying to amend the practice and procedure. Proposed amendments of the rules lie over in the Rule Committee for a long time, and every practitioner and suitor has to put up with the delay. It may be that the amendment proposed is desirable or undesirable, but at least it should be considered, and I think if we had the masters on the committee with their great experience, and the evidence which they could bring from their experience, something perhaps might be done towards improving the procedure. The Rule Committee does not meet on fixed dates. If a new Act of Parliament is passed, under which rules are required, the Government department asks for the rules and then the Committee will meet, because the matter is urgent. Excepting for some such reason, there is no reason why it should meet until the Lord Chancellor thinks fit to convene it.

52,697. (Mr. Coward.) Did they pass the rules relating to the Trading with the Enemy Act?—I think the Lord Chancellor was empowered to make urgency rules.

52,698. They did not pass them?—There happened to be a meeting, and some were put before us, and we were asked to confirm them. The Legislature recognised the difficulty of getting rules promptly from the Rule Committee, and therefore they empowered the Lord Chancellor to make the rules. Many rules have been made with imperfect knowledge, and some of those rules have had to be amended, because in practice it was found that further rules were wanted. My idea is that the Rule Committee should meet twice in each term. There would always be business for it to do, but, whether urgent business or not, it should be summoned.

52,699. How often do they meet?—I should say they meet on an average once in each term, but it ought to be at least twice. Then if they met twice in each term and allocated sufficient time to the work, I think there would be no need for the practice rules that the masters make, and which at times cause a certain amount of annoyance amongst the solicitors. Practice rules I suppose are the work of the masters themselves, and I do not know under what authority, but they tell you that they have to make practice rules, because the Rule Committee has not made a rule which is workable, and they must do it. But if there were regular meetings of the Committee at frequent intervals the masters could say: "This rule does not work on a certain point," and the Rule Committee could consider what amendment was desirable. The Lord Chancellor is president of the Committee and you cannot expect the Lord Chancellor, who has all the affairs of State and matters of the greatest moment to consider,

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to bother about some little imperfection in Order So-and-so, the proposed amendment of which is (say) only three lines. Before he can understand it, he has to look into it and take time to understand it. It is too much to expect of the Lord Chancellor. Although he should remain President of the Rule Committee, there should be an acting chairman, whose duty should it be to preside over the meetings and take up the work and advance it. In addition, there should be an assistant secretary. The present secretary is Sir Kenneth Muir Mackenzie; he is a very busy man with most onerous duties, and you cannot expect him to undertake these small details. The imperfections in the rules of procedure are small in themselves, but unless the judicial machine works smoothly in all its parts, there is friction.

52,700. (*Mr. Boutwood.*) Who constitutes the Rule Committee?—The Rule Committee is presided over by the Lord Chancellor, and also consists of the President of each division, that is to say, the Lord Chief Justice, the Master of the Rolls, and the President of the Probate, Divorce, and Admiralty Division. Then there are certain judges who, I think, are not limited to any particular number. There are judges of the Court of Appeal, Chancery judges, and King's Bench judges. Then there is a member of the Chancery Bar and of the King's Bench side, and two solicitors, one of whom is nominated by the Council of the Law Society, and who is generally a metropolitan member, and another who is nominated by the Lord Chancellor, who is a country solicitor, supposed to be familiar with the work of the Provinces, and particularly with the practice the district registries. I am at the moment the nominee of the Lord Chancellor as representing the provincial solicitors. The secretary is Sir Kenneth Muir Mackenzie.

52,701. (*Mr. Graham Wallas.*) Do you think it would be possible to concentrate in certain convenient centres of population all the subordinate legal duties both of the Probate registry, the High Court registry, and the County Court registry?—It is possible. This subject was one of those that were discussed before the Royal Commission on Legal Delay, but the idea that they should centralise was opposed by most of the country societies vehemently.

52,702. Putting aside the question of personnel and whether those posts should be held by one or by different persons, or what the qualification should be, do you think it would be for the convenience of the public if, at certain easily ascertained centres of population, they could go to a place where they could get the work done?—I do not agree with that view. They could do it, but the extra cost to the local litigant would be so great that he would not agree. Your proposal would be that you would extinguish certain assize towns. Is that what you mean?

52,703. No. You told us that it would be an advantage that there should be fewer Probate registries?—I did not say there would be any advantage.

52,704. That the Probate registry should be put in convenient centres of population?—No, I did not say that. I say instead of having in a town, say, like Hereford, a Probate registry, a County Court registry, and a High Court registry, you should put all the three in one hand; you do not extinguish them.

52,705. About what number of those combined registries would there be?—I could not answer that off-hand. I really do not know how many Probate registries there are.

52,706. (*Chairman.*) There are 40?—There are more district registries of the High Court than of the Probate, so there would be at least 40.

52,707. (*Mr. Graham Wallas.*) Would you make more than 40, so as to make a Probate registry wherever there is a district registry, or would you make 40 and thereby extinguish a certain number of High Court district registries?—I would not extinguish any High Court district registry, because there are not too many.

52,708. Then you would have at least as many Probate registries as there are High Court registries?—Yes.

52,709. (*Chairman.*) I understood the suggestion to be that there would not necessarily be a Probate registry at every High Court registry?—Not necessarily.

52,710. But where there was one you would combine it with the High Court registry?—Yes.

52,711. There are 89 district registries of the High Court?—I do not know the number.

52,712. (*Mr. Graham Wallas.*) How many County Court registries are there?—A very large number.

(*Chairman.*) Between 500 and 600.

52,713. (*Mr. Graham Wallas.*) You would not combine those, but only where there is a Probate registry and a High Court registry would you combine them?—I think it probable that there are enough Probate registries, and it would not be necessary to create any more, either singly or in combination.

52,714. Then, in different towns, a single officer would be in one town with only a County Court; in another town there would be a County Court and a High Court registrar, and in another town there would be, perhaps, all three.

52,715. (*Sir Donald MacAlister.*) We understand that the district Probate registrar, certainly in small districts, has a certain amount of "agency" work in the nature of solicitors' work?—Yes, that is permitted.

52,716. How is that regarded by the legal profession?—I do not think they like it, but I think they recognise that the country towns or villages surrounding the centre are entitled to have the benefit of the registry; the cheapest way they can get the benefit is by post and by communicating with the Probate registrar, who does the work on a very modest basis of fees.

52,717. A more modest basis of fees than a solicitor would charge?—Yes, I hardly believe it would pay a solicitor to do that work for that fee.

52,718. Is it solicitor's work that he does?—Yes, it is in a way, but it is so simple that anybody could do it; you do not want any particular training to do it. For instance, a very large number of law stationers—Waterlows, and firms of that class—do similar work in London.

52,719. It does not require any legal training?—Very little. It is what we call "common form." You have to know a few things, but you do not require any special erudition.

52,720. Is this so-called "agency" work all of that kind?—Yes, all quite simple.

52,721. Still we hear that the fees aggregate in some places to a considerable amount?—Yes, they do, but very seldom would those fees exceed 30s., and very often not more than 15s.

52,722. The aggregate in one place was 150l., and in another 400l.?—Yes, at Wakefield, I know, it amounts to a large sum, but it is an important centre of a considerable area with no facilities.

52,723. The training which would make a man a useful adviser in these matters in the district probate registry would make him equally capable of learning the High Court work?—Would he know how from stern or port from starboard in an Admiralty collision case, as an instance? I do not think he would. It would be most dangerous to have to litigate matters where intricate questions of law, as well as questions of fact, have to be decided before a clerk who has had no education in equitable or legal principles. It only means more cost. Whichever side lost before that registrar, as a matter of course, would appeal, and it would considerably add to the cost of litigation.

52,724. I gather from your whole argument that you think experience of five or 10 years as a solicitor is the best qualification for a judicial office?—My own private opinion is that it should be 10 years, but you may get exceptional men sufficiently skilled in five years. They would have had training under articles, and probably had considerable experience as managing clerks, and may have had a university education, and taken a legal degree. Five years from taking out the certificate to practise in one man's case might be long enough, but might not be long enough in the case of another man. It would depend on what had taken place before his appointment.

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52,725. Solely from the point of view that these registrars, and so on, have to exercise judicial functions?—Yes, they sit as judges in chambers, for instance.

52,726. And the experience which they require for that they would not get as barristers?—Barristers would get some of the experience. I would much rather have a barrister than a layman, because he is well grounded in legal principles, and would, no doubt, give an excellent judgment on a point of law; but where a barrister would fail in chambers is, that he does not know as much as a solicitor about accounts or book-keeping, and does not understand family matters, the treatment of wards of court, in the same way that a solicitor does who is brought up to do all this kind of thing. All that class of work, which a solicitor learns in his private practice, becomes exceedingly useful when, as a registrar, he has to deal with it.

52,727. A judge of the High Court has to be familiar with those things as well as the registrar?—Yes, he has, but not to the same extent. Further, that kind of business is generally assigned to one or two

judges specially, because it is desirable that those cases should always be before a judge who is familiar with this kind of work.

52,728. Then your argument points to the fact that 10 years' practice as a solicitor should be a qualification for the office of judge as well?—Not necessarily; but I see no objection to it.

52,729. (*Sir John Kempe.*) I suppose you would not exclude an officer of the Probate Court? You would prefer a solicitor's qualification, but an exceptional man who has been a probate clerk you would admit; you would not exclude him wholly?—I would exclude him if he had not had a legal education or training.

52,730. However good he is?—He cannot be fit for the office of district registrar unless he has been trained.

52,731. But there are many of the men now who are very good?—I do not know, I would not like to say; but I am sure, if you had to go and seek advice in your own private affairs, you would go to the man who was specially trained rather than to the man who had not been so trained.

ONE HUNDRED AND TWENTY-SEVENTH DAY.

Wednesday, 21st April 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. CECIL COWARD.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. PHILIP SNOWDEN, M.P.
Mr. GRAHAM WALLAS.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. EDWARD ALMS (District Probate Registrar, Taunton), Mr. W. H. L. SHADWELL (District Probate Registrar, Bodmin), Mr. GORDON SIMPSON (District Probate Registrar, York), representing the District Probate Registrars Association, called and examined.

52,732. (*Chairman.*) (*To Mr. Alms.*) You are District Probate Registrar at Taunton?—Yes.

52,733. How long have you held that post?—Since the year 1894.

52,734. What had been your experience before you were appointed there?—I was admitted a solicitor in the year 1881, and on my appointment I was in general practice in partnership with another solicitor, a Mr. Pinchard, of many years' experience in the same town, and we had in our office a considerable amount of Probate Court work.

52,735. Your practice was at Taunton?—Yes.

52,736. Since you were appointed district registrar have the duties of that office occupied your whole time, or do you also practise as a solicitor?—I also practise. It does not occupy my whole time.

52,737. But you do not practise as a solicitor in your own registry?—I do not. That was made a condition precedent to my accepting the appointment when I was appointed by Sir Francis Jeune.

52,738. (*To Mr. Shadwell.*) You are District Probate Registrar at Bodmin?—Yes.

52,739. How long have you held that post?—Since 1892.

52,740. Before that were you a clerk in the Principal Probate Registry?—I was.

52,741. Since what date?—1872.

52,742. Does the post at Bodmin occupy your whole time?—I have no other employment there.

52,743. Is it a condition of your appointment that you should not take any other employment?—No.

52,744. (*To Mr. Simpson.*) You are District Probate Registrar at York?—Yes.

52,745. Since what date have you held that appointment?—I was appointed to the Principal Probate Registry in 1890, and transferred to the Lincoln district in 1906.

52,746. And then transferred from Lincoln to York?—Last year.

52,747. Does the work at York occupy your whole time?—I have no other occupation. I cannot say that the work itself occupies me the whole time; but I feel bound to be there almost all the time.

52,748. Out of the total number of district registrars, which I think is 40, how many have previously served at the Principal Probate Registry?—(*Mr. Shadwell.*) Of the existing district probate registrars 26 have served in the Principal Registry.

52,749. What was the occupation of the remainder?—10 are solicitors and four are barristers. One solicitor died last week.

52,750. That is to say there is one post vacant?—Yes, one post is vacant.

52,751. Can you tell me whether in any cases it is a condition of the appointment that no other occupation should be followed?—It has been. In cases where solicitors have been appointed it has been a condition from the very earliest times.

52,752. In certain registries?—In certain registries.

52,753. Can you tell me how many?—I am afraid I could not say how many? (*Mr. Simpson.*) I had a letter from a Mr. Wilde of Derby, who was appointed in 1869, and he says that it was made a condition before he was appointed—"I received my appointment on 'promising not at any time to practise as a solicitor.'" That shows that it has been a custom from the very beginning.

52,754. Do I understand from you that at the smaller registries a solicitor who is appointed is not precluded from practising, except from practising as a solicitor before his own registry?—I think that is so.

52,755. What is the position as regards holding other official posts. A district registrar in certain cases is also the registrar of the High Court?—(*Mr. Shadwell.*) In three cases.

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52,756. Which are those?—Liverpool, Manchester, and Ipswich.

52,757. Is he in certain cases also the registrar of the County Court?—I believe not in any case.

52,758. In no case?—In none.

52,759. Do the probate registrars hold any other official posts either under a local government body or otherwise?—(Mr. Simpson.) They certainly have done so in the past. I succeeded a man in Lincoln who held office as diocesan registrar, for instance. (Mr. Alms.) I myself hold an appointment as clerk to the bench of county magistrates. I also hold the position of clerk to the Income Tax Commissioners in the division of Taunton.

52,760. Is it frequent for registrars to hold posts of that character in addition to their probate registrarships?—(Mr. Simpson.) None of the Civil servants would be likely to hold any such posts. That gets rid of 26.

52,761. You can say with confidence that none of the 26 hold any such post?—Except Mr. Mais, of Manchester, who is district registrar of the High Court.

52,762. In the case of the other two probate registrars who are registrars of the High Court, that is to say, at Liverpool and Ipswich, were they solicitors?—(Mr. Shadwell.) Yes. (Mr. Simpson.) The registrar at Ipswich is a solicitor.

52,763. Which are the places where the registrarship is held by a barrister?—(Mr. Alms.) Lincoln, Mr. John Strachan; Llandaff, Mr. Raymond Allen; Peterborough, Mr. Charles Smith Magee; and Winchester, Mr. George Granville Phillimore.

52,764. Had those barristers any local connection before they were appointed?—(Mr. Alms.) I cannot say. (Mr. Shadwell.) Mr. Magee was the son of Dr. Magee, at one time Bishop of Peterborough.

52,765. You are not aware if they had any professional connection?—(Mr. Simpson.) I think Mr. Allen had some local appointment, but I do not know any more than that.

52,766. Before going further, I should like to ask about the District Probate Registrars Association, of which Mr. Alms is Chairman. Does that association include the whole of the district probate registrars?—(Mr. Alms.) Yes, it does. I think they are all members of it.

52,767. Dealing first with the position of the registrars, we understand from you that the 26 registrars who were in the Principal Registry before they were appointed to a district registry have not any other occupation besides their registrarships?—(Mr. Simpson.) Yes.

52,768. In the case of the solicitors and barristers—the remaining 14—there is nothing to prevent them having other occupations, and in some cases they have other occupations?—Except the promise extracted from some of them that they should not practise as solicitors.

52,769. Would that undertaking prevent them from holding such posts as have been mentioned—clerks to the justices or clerk to the Income Tax Commissioners?—I cannot say. (Mr. Alms.) No. (Mr. Shadwell.) No. (Mr. Alms.) The term “practising as a solicitor” would embrace the holding of such posts.

52,770. The undertaking not to practise as a solicitor applies generally, and not merely to practising before their own registries?—Yes, it applies generally.

52,771. In the smaller registries the work, I suppose, does not occupy anything like the whole time of the registrars?—No, it does not.

52,772. How many grants are there at York?—(Mr. Simpson.) About 1,100 seems to be the average now. There have been two vacancies lately.

52,773. At Bodmin is the number about 800?—(Mr. Shadwell.) Yes, somewhere about that.

52,774. And at Taunton the number is about 280?—(Mr. Alms.) Yes, 280 to 300.

52,775. At Taunton that would amount to something under one grant per working day?—Allotting one grant to each day of the year, yes; but in practice we find that at certain periods of the year, particularly the first two quarters of the year, the work exceeds considerably the work in the second two quarters of the

year. I should say that quite double or three times the amount of work comes in the first two quarters.

52,776. But even at the busiest time of the year the work cannot occupy anything like the whole time of the registrar?—No, not of the registrar himself.

52,777. The appointment of district registrars is made by the President of the Division?—Yes, the President of the Division for the time being.

52,778. From the point of view of registrars, do you consider that system satisfactory?—(Mr. Shadwell.) Yes, quite as satisfactory as any other system is at all likely to be.

52,779. The suggestion has been made to the Commission that legal appointments of this character should be made either by a committee or by a high legal officer, such as the Lord Chancellor or the President of the Division, on the advice of a committee, that committee to consist, it was suggested, of the permanent secretary to the Lord Chancellor, a representative of the Civil Service Commissioners, a representative of the Treasury, a representative of the department concerned, and a solicitor of eminence. What would be your opinion of a system of that kind as compared with the present system?—(Mr. Alms.) I can see no advantage in it over the present system.

52,780. You prefer the present system?—(Mr. Shadwell.) I think the present system works quite as well as any other system would work, and I am speaking entirely without bias, because I have applied for many appointments and not received them. (Mr. Simpson.) I cannot speak without bias, because I have got a very good appointment in this way.

52,781. I was asking the question from the point of view, of course, not of personal interests but of the efficiency of the Service and the public advantage?—(Mr. Shadwell.) And it was in that spirit I was answering it. (Mr. Simpson.) I think I agree with the change of principle which you suggest.

52,782. You would prefer the suggested system?—I think so. (Mr. Alms.) Yes. It is the first time that the question has been considered by me. I think the proposal which you say has been made, does commend itself to me, because the appointments would not be more or less of a personal character, but would probably be the selection of the best man. One tries to regard it in the light of obviating questions of personal selection and to endeavour to get the best man appointed. So long as political qualifications are kept apart from it the selection of the best men is the thing wanted.

52,783. What is the position of the registrars as regards pension?—(Mr. Shadwell.) By virtue of the Judicature Act, 1879, they are entitled to pension provided that they receive a Civil Service certificate on their first admission to the Service. (Mr. Alms.) With reference to the members of my profession who are not members of the Civil Service, they are not entitled to pension except upon special application to the Lord Chancellor under Section 17 of the Supreme Court of Judicature (Officers) Act, 1879.

52,784. (To Mr. Shadwell.) When you say that the registrars are pensionable, are you speaking now of all the registrars, or of those who had been in the Principal Registry before appointment as district registrars?—It applies only to those who have been appointed through the Principal Registry, because they alone hold the Civil Service certificate.

52,785. On what terms are they pensionable?—On the ordinary terms of the Civil Service; after 40 years' service and on reaching the age of 60, they are entitled to two-thirds of their salary.

52,786. On the salary at the time of retirement or on the salary when they were appointed as registrars?—On the salary at the time of retirement.

52,787. Is that the view held by the Treasury?—It is.

52,788. In the case of all the district probate registrars?—There have only been two district registrars who retired, and are now living, and their pensions are granted them on that scale. When they retired it was not understood what their rights were under the Judicature Act, and they were awarded a pension only on the

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salary which they had received in the Principal Registry when they were appointed to the district registries.

52,789. Was that on the assumption that they came under Section 12 of the Superannuation Act, 1859?—So I understand; and on a representation made afterwards to the Lord Chancellor the matter was reconsidered by the Treasury, and they agreed that the pension should be calculated on the salary of the district registrar as district registrar.

52,790. And on his whole service from his original entry into the Probate Registry?—On his whole service. That involved an increase of pension and the payment of the arrears of pension as if it had been originally granted at that rate (*Mr. Simpson.*) May I point out that that contradicts Mr. Musgrave's evidence at question 46,270 beginning "Are the district registrars pensionable," and the following questions.

52,791. In the following answer Mr. Musgrave says: "The clerks to the Principal Registry who have been appointed district registrars are entitled under the Superannuation Act 1859 to claim a pension on their old salary?"—Yes.

52,792. Do you state that that does not correctly represent the position?—(*Mr. Shadwell.*) No, it does not.

52,793. The two registrars who have retired were originally pensioned on that basis, but on representation the award was revised and they were pensioned on their salary on retirement, and on the whole of their service up to retirement?—That is so.

52,794. Do you understand that that applies to all registrars who are in a similar position, that is to say, who have a Civil Service certificate, and have previously served in the Civil Service?—Certainly.

52,795. There is no controversy on that point?—None that I know of.

52,796. The Treasury have accepted the position that they will be pensionable on that basis?—So I understand. (*Mr. Simpson.*) I have the copy letter whereby the registrar of Wells got a pension. He was a test case. I have the copy letter from the Treasury.

52,797. What was the date of that?—20th June 1913.

52,798. Perhaps you will hand that in?—Yes (*handing in the letter.*)

52,799. What is the position of those registrars who had not previously served in the Principal Probate Registry?—(*Mr. Alms.*) The position of those officers is, that the Lord Chancellor is empowered to grant pensions, upon application, to such officers under the Supreme Court of Judicature (Officers) Act, 1879, Section 17.

52,800. That is the section which gives the Lord Chancellor power to declare that an office is a professional office requiring special qualifications, and thereupon it becomes lawful for the Treasury to make an addition of years to the service?—That is so.

52,801. Is it clear that that section empowers the Lord Chancellor to make an office pensionable when it is not pensionable, or merely that he has the power of putting the Treasury in a position to add years?—Apparently it puts the Treasury in the position to add years. That is the only means by which members of any profession who are district registrars can obtain anything in the nature either of pension or retirement allowance.

52,802. In any case the Lord Chancellor has not made any declaration under that section at present?—Not to my knowledge. (*Mr. Simpson.*) No, he has not.

52,803. Do you wish to make any representation to the Commission on that point?—(*Mr. Alms.*) We do. We submit that the district probate registrar, by virtue of the important and responsible duty that he has to fulfil, should be granted a pension as a matter of course, without making special application, after a certain prescribed service.

52,804. Do you apply that to the smaller registries where a solicitor carries on private practice at the same time and holds other posts?—I should say it would apply more particularly to those positions which are held by district registrars who are precluded from practising. They give their whole time, and are precluded from obtaining emoluments through practising as solicitors, and they hold responsible Civil Service posts.

52,805. You are aware that it is not the practice to make part-time posts pensionable?—I am not aware of the practice.

52,806. You do not suggest that part-time posts should be made pensionable?—It might be *pro rata*. There is a responsible duty, and the fulfilment of a responsible duty performed faithfully and loyally for so many years, and I submit that, *pro rata*, they are entitled to the same pension. (*Mr. Shadwell.*) Might I add to that that the 20th section of the Act of 1879 gives power to the Lord Chancellor to declare that the Civil Service certificate shall not be necessary in certain specified offices. May I also say that the holding of certain local offices by a solicitor does entitle him to pension. For instance, he may be clerk to a board of guardians, and on retirement from that, which is not a whole-time office, he receives a pension according to the Local Government Act; so the principle of a part-time office, not entitling to pension, prevails only in the Crown service.

52,807. The pension you speak of is a pension from the Board of Guardians?—Yes, it would be charged on the rates.

52,808. Turning now to the clerks to the district registrars, how are they appointed?—That raises a difficult question. By the construction which is put upon the Judicature Act from our point of view, they are appointed by the President. Through some misunderstanding they are in form appointed by the district registrar and approved by the President.

52,809. The appointment is made in form under Section 110 of the Act of 1857, dealing with the Probate Court?—Yes.

52,810. That section is still in force, is it not?—It is contended to be still in force, but not admitted by the registrars.

52,811. On what grounds do you say it is not in force?—That it is repealed by the Judicature Act, 1873.

52,812. Was it scheduled as repealed?—None of the provisions of the Probate Act, or of any other Act, were scheduled as repealed by the Act of 1873.

52,813. Certain sections of the Act of 1857 were repealed by one of the subsequent Acts?—Some of the sections were repealed by the Act of 1879 as being inoperative—having become inoperative, not made inoperative by the repeal which did not alter the state of the law at that time.

52,814. Section 110 was not specified in the repeals made by the Act of 1879?—It was not.

52,815. The President acts upon the opinion that Section 110 is still in force?—He does at the present time, but after the Act of 1873 came into force, in 1875, the appointments were, in form, made by the President reciting the power given to him by the Probate Act of 1857, which, of course, gave no power to the President. The only power the President had was under the Act of 1873. The fact that the appointment rested in the President was recognised, but the authority which gave him the power was mis-recited. The practice of appointing by the President and not by the registrar, who had no official voice in the appointment, was followed until 1888, and then the practice was changed, and the registrar was called upon to make the appointment and submit it for approval to the President; and that practice has been followed.

52,816. Your suggestion is that formerly the President made the appointment by the right method but recited the wrong authority, and that now he makes the appointment by the wrong method and cites the wrong authority?—That is so.

52,817. Do you say that the attention of the Treasury and the successive presidents has been directed to this irregularity?—It has.

52,818. What has the Treasury to do with it?—The appointment has to be made in conjunction with the Treasury. It has to be submitted to the Treasury. The Treasury will not act in the payment of any salary until the appointment has been made, and they have had notice of intention to make the appointment for a month or less.

52,819. The appointment when made is reported to the authority which pays the salary?—Yes. It is rather more than that, because when a vacancy occurs

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the Treasury is at once communicated with by the President and informed of the fact, and then the President communicates his intention to make an appointment, and the Treasury, so to speak, sanctions it.

52,820. The object of that previous communication is to give the Treasury and the Lord Chancellor the opportunity of considering whether it is necessary to fill the vacancy at all?—That is so.

52,821. And not to deal with the actual appointment in any way. The Treasury has no voice in the actual appointment in any way?—That I am not prepared to say.

52,822. By whom have representations been made to the Treasury?—By the registrars—not to the Treasury direct, of course. They can move only through the President.

52,823. You said that the attention of the Treasury had been directed to this irregularity. I want to know by whom the attention of the Treasury has been directed to it?—That I cannot say. (*Mr. Simpson.*) It is under the Act of 1881. I dare say you are aware that notice is given.

52,824. Yes; but that notice has no particular bearing on the present point, has it?—(*Mr. Shadwell.*) In saying the attention of the Treasury has been drawn to it, I have in mind the application made for the pensions which turned on the same point—the method of the appointment.

52,825. Do you suggest that the difficulty of arriving at a decision on points of this kind makes it expedient to have some tribunal for settling points which arise in which members of the Service do not agree with the view taken by the Treasury?—I do.

52,826. In your précis of evidence you suggest that the Commission have made a recommendation in that sense?—I do.

52,827. To what recommendation do you refer?—I think it is stated in one of the letters of your secretary. If not, I think we had some official notice that you had done so; but if I am wrong there, then I should say it has appeared in the report already published.

52,828. The reports of the Commission are public property. Can you refer me to any recommendation of the Commission in that sense?—I do not know that I can. I did not myself look it up.

52,829. Have you referred to the paragraph of the Commission's report on that subject?—I have not had an opportunity of doing so.

52,830. The recommendation of the Commission in regard to that matter was, that a special department should be formed within the Treasury for dealing with certain questions affecting Departments of State. It did not in any way contemplate an independent or outside tribunal for settling questions arising between the Treasury and other departments?—I am sorry we should have been misinformed. (*Mr. Simpson.*) The ground of putting that in at all was the opinion of the law officers that certain clerks in the district registries were pensionable, upon which certain pensions were granted. That was in 1912, and then in 1914 the law officers reconsidered that opinion, and, consequently, these clerks who had anticipated pensions were deprived of them. You will hear from the clerks more about it, but I think that is what we had in mind when we thought an independent tribunal would be an advantage.

52,831. The point that was at issue there was a point of law—a point of construction of statutes?—Yes. Of course it has been a bitter disappointment to many clerks.

52,832. Was the point at issue there a point of law—a question of construction of statutes?—Yes.

52,833. The question that you are speaking about was the question whether the clerks in the district registries are pensionable under the terms of certain statutes as they exist at present, was it not?—I was merely trying to explain what was at the back of our minds.

52,834. Was the question at issue then a question whether the clerks at district registries are pensionable under the terms of certain statutes?—Yes.

52,835. On that point the Treasury acted finally on an opinion of the law officers?—Yes.

52,836. You suggest that there should be some independent tribunal to settle a point of that kind?—Yes.

52,837. Do not the courts of law constitute such an independent tribunal. Is it not open to any body of persons in the Service if they think they have a legal right to certain things to bring a petition of right?—I thought that the Treasury decision was final. (*Mr. Shadwell.*) Upon the matter of granting pensions the Courts have held that the decision of the Treasury is final, and no question can be raised with regard to it. That was held some years ago by Vice Chancellor Malins. A point came up quite recently in an application of one of the railway inspectors under the Board of Trade, and his application was dismissed at once by the Court on the ground that the Treasury's decision on matters of pension is final.

52,838. If that is so, can it be the case that there is a legal claim?—That, of course, is the question at issue. They contend that they have a legal claim. They claim that the statutes have been misunderstood. I do not know whether that could be raised on a petition of right or not. It would certainly be more satisfactory if it could be settled in another way without the expense of a petition of right.

52,839. Yes, but is not the point this, that, if there is a legal claim, it can be enforced in a legal manner. If there is not a legal claim, then the technical legal point falls to the ground?—(*Mr. Alms.*) And precludes the raising of the question.

52,840. The point I ask you to consider is this: Is not this really a case to be considered on its merits and not on the technical legal points?—Unquestionably so, and that is the opinion of several of our district registrars. They are in favour of an impartial tribunal who should determine all these questions of pensions, pay, and so forth that may arise—that an impartial tribunal should not be a tribunal of the Treasury, who would obviously have as a first consideration the duty of keeping down expenditure. That is a very strong point made by several of our registrars. They think that an impartial tribunal would be of great benefit to the public service generally. A petition of right is a very expensive matter and, apart from that, proceedings in the courts of law against the Treasury would be represented by eminent law officers, and they would have to be met on the other side by men of equal calibre, who are very expensive and altogether prohibitive of course.

52,841. Taking the question from the point of view of the position of the clerks and considerations of equity, what is your opinion as regards their claim to be made pensionable?—In my opinion unquestionably they are entitled to pension apart from the legal points involved and the technical points on those innumerable statutes which have induced even the high authorities—the late law officers of the Crown and others—who advised the Treasury upon it to say that they were so technical that it was very difficult indeed to put a construction upon them. In my opinion the clerks are unquestionably entitled to the consideration of their salaries and also of pensions. I think it is very unreasonable and very unjust, if I may say so, in regard to men who have devoted their time to the service of the country. My chief clerk has so devoted 40 years of his time. He is a most competent man and capable, and has performed most excellent service to his country in the office that he holds; and I think it is unreasonable by the mere fact of his not having passed some Civil Service examination that he should be deprived of a pension on his retirement after that faithful service that he has given to his country.

52,842. How many clerks have you in your registry?—Three.

52,843. Is their whole time employed on the work?—That question raises a point as to the duties of clerks in district registries. The only evidence that I can see upon that—I have not had time to read the evidence which has been handed to me this morning—is the evidence of Mr. Musgrave. The work performed by the clerical staff in a district registry—in my registry, by three clerks—is an amalgamation of the entire duties which devolve upon several departments in the Principal

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Registry. In the Principal Registry they have their various departments which do certain particular work. Now, in the district registry the whole of that work has to be fulfilled by the limited staff in that registry, consequently the work of the individual clerks is very considerably increased. I have a list of the duties fulfilled by the clerks in my own registry which I can show the Commission.

52,844. (*Mr. Coward.*) They have to perform the work that has to be done—that is all?—Yes, they have, and that work done in the Principal Registry is done in departments?

52,845. Yes, it is?—The clerk there does only one particular work and does not do any more. In district registries the limited number of clerks carry out the entire duties of the several departments in the Principal Registry.

52,846. (*Chairman.*) On any points of difficulty I suppose your clerks would refer to you?—They do.

52,847. You have not yet answered my original question, namely, whether the work occupies the whole of their time?—I should say that, generally speaking, it does. Of course, there are days upon which, in a small registry like mine, the work is very light.

52,848. (*Mr. Coward.*) Nothing, sometimes?—I would not say “nothing,” because although there may not be the actual issue on every day in the year of a grant in the registry solicitors constantly come in and ask questions upon points of practice, and there are papers sent to the registry for consideration and advice upon them. The making of copies of wills regarding these applications from outside, and applications for searches. All that work goes on although there may not be actually a grant on a specific day.

52,849. (*Chairman.*) Is there anything like enough work to occupy three clerks, in addition to such time as you yourself give to it?—On a great number of days throughout the year there is.

52,850. Is there work other than copying sufficient in amount to occupy any substantial part of their time?—Perhaps that would be best answered by giving the duties performed by the several clerks.

52,851. I do not think that would answer the question. We know generally what the duties to be performed in connection with dealing with an application for a grant are, and we may take it that those duties have to be performed by your clerks subject to reference to you on a point of difficulty, and also, I suppose, subject to reference to the Principal Registry on any point of special and exceptional difficulty?—The district registrars are responsible for the work in their district registries. It is a practice which has grown up for them to refer to the principal registrar, whose reply invariably is not a directory one, but “I think so and so.” It may be confirmatory or otherwise of the opinion of the district registrar, but the responsibility of the district registrar is fixed upon him subject to application to the judge.

52,852. But as regards the actual amount of work at a normal time when there is no special pressure or special lightness of work, have your clerks anything like a full day's work on the registry work?—Not at all times.

52,853. Do they do any other work as well?—They do, outside their office hours.

52,854. Is that work in your office or other work?—One of the clerks does some of the work in my own office. One of the other clerks is engaged as secretary to the archdeacon. Others do general clerical employment that can be obtained outside out of office hours.

52,855. Could the work of your office in the probate registry be done by less than three clerks?—At times it would be a very great strain to do it with only two clerks. The clerks constantly now work on the duties of the registry beyond the official hours, particularly on market days when the people, both solicitors and applicants making personal applications, attend the markets; the market day is a day on which there is greater pressure of work.

52,856. (*Mr. Coward.*) That is one day in the week, is it not?—Yes.

52,857. (*Chairman.*) (*To Mr. Shadwell.*) At Bodmin you have four clerks?—I have.

52,858. Does the work there occupy anything like their whole time?—On an average certainly, yes. I had three clerks when I was first appointed, and the work increased so much that it became necessary to provide for it by an extra clerk. I will not say that the existing staff could not do more work than they do now, but at times the pressure is quite severe.

52,859. You have an average of about three grants per working day?—Yes, not quite that.

52,860. Between two and three?—I should not ask for any increase of staff until I exceeded that average; there is a margin, of course.

52,861. I find it somewhat difficult to understand how it can be that the work connected with that number of grants, and such other work as there is—searches, advice to the public, and so forth—can occupy anything like the whole time of the registrar and four clerks. Can you explain to me how it does?—There is a great deal to do in connection with all those operations which requires a great deal of care. It cannot be done in a slovenly manner. There are constant interruptions, and during the busy months of the year it is difficult to keep the work free from arrears as regards the registering of and copying wills into books and so on.

52,862. Is it the copying of wills which occupies so much time?—That is part of it.

52,863. The whole of the copying is done by the clerks?—Yes. There is an additional copying clerk employed by piece-work, and paid when he attends, and not when he does not. He comes when he is wanted.

52,864. Is your copying done in hand-writing or typing?—Entirely in writing.

52,865. Including the copy which is sent up to the Principal Registry?—Including that.

52,866. Have you ever considered the use of type-writing?—I have, and I mentioned the subject at the Principal Registry, and I was told that formal application would not be entertained.

52,867. Did you understand on what grounds?—I did not.

52,868. Are you aware that the registered copies of wills proved at the Principal Probate Registry are type-written?—I am fully aware of that, and it was on that ground that I made the suggestion, which I thought at that time would have lightened the work when we were working with a staff of three clerks.

52,869. (*To Mr. Simpson.*) At York the staff consists of seven clerks?—Six clerks and one copying clerk.

52,870. Do you find your staff is fully employed?—May I speak of Lincoln, where I had three clerks and an average of nearly 600 grants. There I found that the clerks were thoroughly well occupied the whole day. Now at York my two senior clerks (the oldest of whom is 78 and very deaf, and the second one has lost the sight of one eye and is a very nervous man) do not pull their weight in the boat, and I think that if I could pension those two men off I could do with a clerk less. I have only been there a year, and that is my impression at present. But at the same time I find at York that the men are working overtime very often. I sometimes stay myself, perhaps until 5 o'clock, and I find one or two men are almost always there finishing up their work.

52,871. (*Mr. Coward.*) Do they get paid for that overtime?—No, they do not get paid overtime.

52,872. (*Chairman.*) Looking back to your experience at the Principal Registry, do you consider that your clerks have, on the average, as full a day's work as a clerk in the Principal Probate Registry?—Yes, I do.

52,873. The answer you gave just now suggests another question. Should you say that the absence of any system of pensions creates inconvenience owing to the difficulty of retiring men who are, through age or infirmity, becoming past their work?—A very great inconvenience at York in my experience, because I have to keep those two men nominally responsible for important work, and I really employ a junior clerk—a fourth clerk—to nurse them through their work as it were. If a solicitor comes in and speaks to a man who is stone deaf, I have to have the other clerk there to help him through, and I do not think it is right for the senior man or the junior man.

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52,874. (*Mr. Coward.*) Could not you put him to some other employment in which it would not be necessary for him to have to talk to others?—But he would still have to receive his pay of 275*l.* a year.

52,875. (*Chairman.*) (*To Mr. Alms.*) Have you a staff of clerks in your private office?—I have.

52,876. How do you deal with the similar difficulty which must sometimes arise there. Have you any system of pension for your clerks?—I have not.

52,877. What do you do in your own office when a clerk grows old and is somewhat past his work?—I am afraid I have not experienced that yet.

52,878. The case has not arisen?—The case has not arisen.

52,879. What do your professional colleagues do? I understand that amongst solicitors' clerks generally there is no general system of pensions?—That is so.

52,880. How do solicitors deal with the question, which must arise frequently, when one of their clerks grows old and somewhat past his work?—They pay him a pension then. I know the case of a friend of mine who had a clerk for very many years, and when he got old and past his work he pensioned him.

52,881. In your experience does it frequently occur that solicitors pension their old clerks?—I think with an old servant who has served faithfully and well for many years it is the practice of members of my profession to look after him in his old age. There is a Provident Clerks Association which I always endeavour to get my clerks to become members of, and a Benevolent Association, but there is no system or source of providing them with pensions.

52,882. Do you know whether any provident fund or contributory system of pensions has ever been considered for the clerks of district probate registries?—I am not aware of any.

52,883. In the case of Local Government bodies, do such systems exist—take the clerks in the Poor Law administration, for instance?—I have not gone into that.

52,884. You are not familiar with that?—I am not.

52,885. But the contributory system exists in many private organisations, such as large railways?—It does.

52,886. What would you say to a suggestion that a contributory system might be instituted for the probate registry clerks?—I think their salaries would have to be raised to do that. Of course, it is inculcating habits of thrift, but to require them to pay what would be a considerable sum annually towards the benefit fund out of their comparatively small income at the present time would, I think, be a great hardship upon them.

52,887. The salaries at the present time have been fixed on the basis of a non-pensionable service?—Yes, they have.

52,888. So that, *prima facie*, it would not appear unreasonable that, if a pensionable system was added, there should be some adjustment of salaries either by a contribution or otherwise?—It may be so.

52,889. Do you suggest that the salaries are fixed at so low a level that it would not be equitable to require a contribution in respect of the pensions?—I certainly do think so with regard to the salaries paid to the clerks in my own office.

52,890. How do those salaries compare with the salaries of clerks in your own employment or in the employment of other solicitors?—They are lower—considerably lower.

52,891. Would you say that they are lower for corresponding work?—Yes, unquestionably.

52,892. Do you apply that to the salaries generally in the district probate registries?—(*Mr. Simpson.*) Shall I answer, as I have rather a higher scale of salaries? I was asking one of my clerks who was in a solicitor's office about this, anticipating some sort of question like this, and he said when he came in he made a sacrifice. He was getting, I think, 35*s.* a week, and he sacrificed it for 30*s.* because he thought that the higher salaries later on in life would compensate him for it. The highest salary in my registry is 275*l.* a year.

52,893. That is to say, he accepted a lower salary at the moment because of the prospect of the higher salary later?—Yes; and afterwards, as a matter of

fact, he got a better offer still, but he stuck on—I suppose he liked the work. That was how he explained it.

52,894. From what class are the clerks in the district probate registries recruited generally?—Chiefly from the solicitor's clerk class.

52,895. That would seem to show, would it not, that they think the prospect in the probate registry is better than in the office where they are, if they accept appointments in the probate registry?—Yes. (*Mr. Shadwell.*) They are less likely to lose their employment. (*Mr. Alms.*) The point is, that the junior clerks are usually, I believe, appointed at an early age, and in some cases the salaries offered by the district probate registrars exceeds the salary which that junior is getting in a solicitor's office, and that is an inducement to him—perhaps not a very far-sighted one, except so far as Mr. Simpson has stated with regard to the ultimate salaries; but it is an inducement to him to get a rise, which is naturally in his mind.

52,896. The case which Mr. Simpson stated was rather the converse of that—the case of a man accepting an immediate fall in salary with a prospect of an ulterior rise?—Yes. That clerk was getting 35*s.* a week. (*Mr. Simpson.*) My clerk accepted a lower salary because he thought he would do better later on in life. (*Mr. Alms.*) At what age was he appointed? With 35*s.* a week, unless he was a very competent clerk, it could not have been the instance of a very junior clerk. He was probably over 25 years of age when appointed. (*Mr. Simpson.*) 24.

52,897. What is the total number of grants made through district registries?—(*Mr. Simpson.*) In 1913 it was 34,489.

52,898. Is that an increasing amount?—It is very steady in number, I think; one year it is a little up, and another year a little down.

52,899. That is not very far different in amount from the total number of grants made through the Principal Registry?—It is about half and half, I think.

52,900. Is the number in the Principal Registry increasing?—The number is increasing in the Principal Registry.

52,901. Is the increase more rapid in the Principal Registry than in the district registries?—The figure for the district registries has risen from 1859, when it was 26,000, to 34,000 in 1913; but I have not the figures for the Principal Registry. I have only the figures for 1912–1913 for the Principal Registry.

52,902. Have you any observations to make on the subject of the fees charged in the district registries and in the Principal Registry?—In the district registries it is more expensive to take out a grant than it is in the Principal Registry, which is prejudicial to the number of grants passed in district registries.

52,903. You represent that that encourages the public, or the profession, to take out grants in the Principal Registry rather than in the district registries?—Yes. I have had it said to me by a solicitor, a personal friend, who used to send all his work to London: "I cannot advise my clients to send their grants to you because you charge me more than they do in London." (*Mr. Alms.*) That is a very general ground of objection in my district. Solicitors whom I have asked to send their papers through the district registry, give precisely the same answer. They have said: "If I practise in the district registry I have to pay more fees than I do if I send my papers to London." That is considered by our association as being undesirable. We say that there ought to be a uniform scale of fees in the district registries and in the Principal Registry.

52,904. It would be outside the scope of our reference to go in detail into the question of fees, but we will take note of your representation that that militates against the business of the district registries as compared with the Principal Registry. Has that scale been in force for long?—(*Mr. Shadwell.*) Since the beginning, 1857 or 1858.

52,905. Would it be correct to say that the additional charge represents certain additional work which has to be done when a grant passes through a district registry?—It represents the communication with the Principal Registry and the supplying of copies.

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52,906. And the additional copy of the will which has to be recorded in the Principal Registry?—Yes, and of the record.

52,907. (*Mr. Coward.*) The difference in fees must be a very small matter?—(*Mr. Simpson.*) I sent to the Commission 25 copies of the Report we made, which gives the fees. (*Mr. Shadwell.*) Our submission is that these are all fees charged in the general public interest. It is for the advantage of the country, as a whole, that there should be copies of every will, and record of every grant made, filed in the Principal Registry. It is of no individual advantage to the applicant at a district registry, and, therefore, it is unjust that he should bear the cost of doing what is to him of no benefit.

52,908. (*Chairman.*) (*To Mr. Shadwell.*) Do you consider that the present arrangement and organisation of the district registries is the best for the public convenience?—I think it is a very great convenience for persons living in the districts to be able to deal with the district registrar.

52,909. It has been suggested to the Commission that the district registries at present are situated in many cases at places which once had an ecclesiastical importance, but which do not coincide at present in any way with the centres of population, and are not necessarily the most convenient for railway and other communication, and that some readjustment ought to take place, including probably a diminution in the total number of district registries. You are perhaps aware that as long ago as 1874 suggestions of that kind were made by the Commission on the Legal Departments. Are you prepared to express an opinion with regard to those suggestions?—I could only express the opinion generally that if the registries were now to be established for the first time, many of them would be located at quite different places to what they are now, having regard to what you have said; but whether it would be a prudent step to transfer the whole registries, as they now stand, from one town to another is a matter which, I think, hardly comes within our consideration.

52,910. From your point of view, do you see any great difficulties that would arise in carrying out such a suggestion?—No, except that there might be a great deal to be said for increasing the number of registries, in order to bring nearer to the people in different parts of the country the facilities which those registries are designed to afford; but that is rather a matter of general policy than one which affects the existing registrars. (*Mr. Alms.*) I take it that the district probate registries were originally established in order to afford convenience to the public living in the various counties, and opportunities for passing their probate papers through the local probate court. The question of personal applications becomes involved considerably with this question, because personal applications as a rule are made by people who are in poor circumstances, and therefore cannot afford to travel long distances. I quite see the point you raise that possibly the centres of the old Ecclesiastical Courts may in some instances not be the most convenient centres at the present day. In my own county there are two district registries, one at Wells and the other at Taunton. Looking at the map you might think that one of those might be dispensed with and the other retained. I do not suggest which should be retained (probably because I occupy one of them), but if I did not occupy one, probably what I am going to say will explain it. Wells is a centre for the eastern part of the county. It is a large county. Wells is very inaccessible by train. It has a very poor train service indeed. It is extremely difficult to get to Wells and back again in a day from almost any part of the county, but, at the same time, it is a centre and a large centre for such people as I described, who come with personal applications. Small railway lines run in from the localities of Wells, and it affords them opportunities of going to the district registry there. On the other hand, Taunton is a large railway centre with five or six lines all converging there, and it is on the main line; and that is convenient, at any rate, for the western end of the county.

52,911. Taking the case of Wells, would not the whole district served by Wells be more conveniently

served by Bristol, for instance?—It would be a very long way, and a very difficult business to bring such people as I have described who make personal applications from the eastern part of the county, and from Wells all the way up to Bristol. It would involve a very considerable expense to them to bring them to Bristol.

52,912. Is not the case of people residing at some distance from the registry met to some extent by the power of sending papers for a grant through the Inland Revenue officer?—They do not appear to take much advantage of it in my part of the country. The Inland Revenue officer is not trained to this work; he sends the instructions to the district registry, and it frequently involves delay and correspondence explaining to the Inland Revenue officer what is further required in order to provide the necessary information.

52,913. (*Mr. Boutwood.*) Can the Inland Revenue officer deal effectively with the personal applications?—Himself? No; I should say not. I am afraid the idea of some of the members of the Commission in regard to personal applications is that they are necessarily extremely simple matters. In a number of instances they may be so; but, on the other hand, in my experience they involve far more intricate points than do the well-prepared wills drawn up by the legal profession. A great number of the wills that are brought in on personal applications are home-made wills prepared, say, by the village blacksmith, and the man who operates in a small locality as the lawyer. In a large number of cases they involve points which require the greatest care and knowledge as to the title of the grant and the validity of the will. Questions more frequently arise on personal applications than upon any other.

52,914. (*Mr. Coward.*) Such as what?—The validity of the will.

52,915. Whether it has two witnesses?—Or the non-appointment of executors. Then the Inland Revenue officer will have to follow very involved questions as to the chain of executorship, and so forth. They are extremely involved questions and give us more consideration and more trouble than any other question that arises in our courts. I do not think it is possible for an Inland Revenue officer, not trained to probate work, to undertake the passing of grants off his own bat, so to speak.

52,916. (*Chairman.*) But I understand that the Inland Revenue officer does not in any way pass grants; he passes them on, which is quite a different thing?—He passes them on; but I understood the question put to me by a Commissioner to be whether the Inland Revenue officer was capable of dealing entirely with personal applications.

52,917. (*Mr. Boutwood.*) No; I put the question to bring out yes or no to this point: The question was raised about the number of probate registries, and the suggestion was made that the existence of the Inland Revenue officer with his new powers would make up for the absence of a local registrar. I wondered how far that was true—how far the Inland Revenue officer would be a real substitute, or could be a real substitute, for the district registrar?—From his want of special training I should think that he would not be by any means capable of dealing with the many questions which arise on the presentation of papers leading to a grant.

52,918. (*Chairman.*) In the Judicial Statistics I see that the personal applications direct to a registry numbered 6,762 in the year 1913, whereas personal applications through the Inland Revenue officers amounted to 4,955. That is to say, a very substantial number—not so very far short of the number made direct—were made through Inland Revenue officers. I see also that at Bodmin the number of grants made through an Inland Revenue officer was nearly three times as great as the number made direct to the registry. At York the number was twice as great and at Taunton it was smaller. At Bodmin and York, where the number of personal applications made through Inland Revenue officers is very much larger than the number made direct, do you find that inconvenience arises from that method of receiving personal applications?—(*Mr. Shadwell.*) It involves a great deal more correspondence and instructions, and so forth. Personally, in consideration

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of the inconvenience of reaching Bodmin from other parts of the county, I am constantly recommending persons who apply by letter to know whether they can come to the registry to make their applications through the Revenue officer in order to save them the lengthy journey and inconvenience of waiting. It is a most inconvenient county to travel in. That accounts partly for the number that come in that way. They involve more trouble at the registry.

52,919. But, still, the system works satisfactorily?—The system works because I encourage it.

52,920. What is the case at York?—(Mr. Simpson.) The reason of the number that I have in my district is that I have in my district Hull and Middlesbrough, with a very large number of poor people, and therefore the bulk of those applications come from those two places. I invariably, if a person writes from anywhere near an Inland Revenue officer, say: "Take the papers to the Inland Revenue officer if the estate is under £500, and he will forward the papers to me." He is only an intermediary.

52,921. Quite so. He is a post office?—He never looks at the will, or whatever he sends up, to see if it is executed properly, or anything else; he merely sends it to me, and I draw the papers—the oath—not the Inland Revenue affidavit, which he draws.

52,922. Do you find that that system gives you a great deal more trouble than the personal applications direct?—The trouble is much the same. I am rather more anxious about those cases, because the Inland Revenue officer is not responsible at all. I always take particular interest in those cases, to see that they are all right. If something arises which I think the Inland Revenue officer can deal with, I send him very careful instructions. Of course, the officer at Hull is probably a man of very considerable education, receiving a large salary; and I do, when I am writing to him, give him a rather more free hand than I should give to a smaller man who has not, perhaps, the same experience. I think it is most convenient.

52,923. Turning to the main question with which we are dealing, if such local registries as were retained were placed at the great centres of population, instead of as now, sometimes at small places difficult of access, the convenience of the public would be consulted more completely rather than less completely?—Yes.

52,924. So far as any persons who have facile access now had less facile access under a revised system, their convenience would still be met by the system of applications through Inland Revenue officers?—I do not think the solicitors would say so. Supposing you moved my registry from York to Hull, I think the convenience of the solicitors of York would certainly not be consulted, because they can come in and see me personally about every case. They would suffer considerably. Of course, as a matter of fact, Hull is not so convenient as York. York is the centre of the railways.

52,925. Yes; York is not one of the cases where the registry is placed away from the centre of population and centre of communication?—No.

52,926. But in the cases where the registry at present is away from good communications and away from the large population, do you see any inconvenience in moving it to a place where there are better communications and a larger population?—I think ultimately it is more convenient. There are a larger number of solicitors in Hull than in York.

52,927. The question has also been raised of the amalgamation of probate registries, where they exist, with the district registries of the High Court, or with both, the district registries of the County Court, or with both. Are you prepared to express an opinion on that suggestion?—My opinion is that the person who is appointed to the probate registry should be a man who thoroughly knows the probate work. No doubt it is the same with the County Court registrar. I could not take on the County Court registrar's work at York, and I do not know that the County Court registrar could take on my work. He has probably had no special training, no more training than any other solicitor, in probate work, so that another solicitor in York going to him for information would not necessarily get any more than he could give himself.

52,928. May we take it as your opinion that the persons most suited for district probate registrars are the clerks in the Principal Probate Registry who have had experience of probate work?—Yes, undoubtedly.

52,929. Do you all agree in that?—(Mr. Alms.) I do not deny that the clerks in the Principal Probate Registry are certainly well qualified for the appointment of district probate registrar.

52,930. Do you consider that they are the persons best qualified?—Now you are putting me perhaps in rather a difficult position, because I happen to be a solicitor registrar. I should say, on principle, they certainly ought to be best qualified by reason of their special training.

52,931. Their training in the Principal Probate Registry would not in itself qualify them for the work of a County Court registrar or a High Court registrar?—No, it would not. I think the suggested amalgamation would not tend to efficiency.

52,932. I gather that your opinion is generally against such amalgamation?—Against it, particularly as the scope of County Court jurisdiction has increased, is constantly increasing, and is likely to increase, and that would entail heavier duties upon the County Court registrar which would leave still less time for district probate work.

52,933. Another suggestion which has been made to the Commission as tending to the convenience of the public generally, is, that all geographical limits for grants of probate or administration should be abolished; that district registries should still exist, but that any person wishing to make application for a grant should be perfectly free to make it at whatever district registry he liked, or at the Principal Registry?—In my experience I think that is a very good suggestion. There is excellent communication from East Devon and North Devon with Taunton, but because they happen to be over the border in another county they are precluded from bringing their papers to Taunton.

52,934. (Mr. Coward.) The limit is ridiculous, is it not?—I am inclined to think it is. A person might be very near the border and he might have to travel many more miles to his own registry than to the registry of the adjoining county.

52,935. (Chairman.) The case was put to us of a man whose business was in Manchester, but who resided across the river in Cheshire. In that case if he wished to apply for a grant at the local registry he would have to go to Chester, whereas his business and his man of business would be probably in Manchester. It was suggested that inconvenience of that kind would be removed by allowing the applicant to make his application wherever he preferred?—Yes.

52,936. (To Mr. Simpson.) What do you say to that?—I agree. (Mr. Shadwell.) And I agree.

52,937. If there was perfect freedom of application, do you think that that would tend to increase the business of district registries or to increase the business at the Principal Registry?—(Mr. Shadwell.) To increase the business at the district registries. (Mr. Alms.) I think it would. It would give facilities to the people.

52,938. What is the position at present as regards applications by post—by correspondence?—(Mr. Alms.) I receive a large number—the majority—of applications from solicitors in my registry through the post.

52,939. Are you aware what the practice of the Principal Registry is in that respect?—(Mr. Simpson.) They will not receive them at all through the post.

52,940. They do not receive applications at all by post?—No, everything must be done by the solicitor or the applicant.

52,941. It is the practice at district registries to receive applications by post?—(Mr. Alms.) Yes.

52,942. Does the registrar in those cases charge certain fees for his services in dealing with the application?—(Mr. Simpson.) Yes. (Mr. Shadwell.) Yes. (Mr. Alms.) For the correspondence and assistance that he gives to solicitors who are practising in his registry he makes a small charge.

52,943. It has been suggested to the Commission that that system is undesirable on various grounds.

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Have you any observations on that point?—(Mr. Shadwell.) May I ask whether it is considered undesirable that the business should be conducted by correspondence or that a charge should be made for the correspondence?

52,944. The suggestion, as I understand it, is, that it is undesirable that the registrar should have a pecuniary interest in certain forms of grant, and also the suggestion has, I believe, been made on behalf of the profession that the registrar, by taking fees for work of this kind, is doing solicitor's work, which he is not entitled to do?—There is more than one objection.

52,945. Will you take them separately?—The first is that it is undesirable that a registrar should receive pecuniary interest. May I understand to whom it is undesirable? It can hardly be said to be undesirable from the point of view of solicitors, because they resort to the practice very largely and find it most convenient. The objection cannot come from the solicitors who follow the practice.

52,946. Although it has not been given in evidence my attention has been called to a report of the Law Society, in which objection is taken to it on behalf of the profession?—Yes, that is to say, by the Incorporated Law Society of London, the members of which consider that they are losing fees which might come to them.

52,947. (Mr. Coward.) The Law Society does not consist only of London men?—No, but I thought the action taken in this matter was on behalf of those who resided in London and who practised in London.

52,948. Certainly not; they are represented on the council by members from all parts of the kingdom, or rather England and Wales?—(Mr. Alms.) May I say how I think this question has arisen? I happen to be a solicitor as well as district registrar, and therefore, perhaps, I can look into it and take it more or less from an impartial point of view. I have before me the annual report of the Council of the Law Society of July last, and on page 106 it says: "At a meeting of the Council held on the 28th November 1913, a letter was read from the secretary to the Wakefield Incorporated Law Society, stating that the office of registrar of the Wakefield Probate Registry was vacant," and pointing out the principle you are dealing with now, namely, that a registrar receives certain fees for assisting the solicitors in his district; and the solicitors in the Wakefield Law Society deemed it was undesirable, and they got the Law Society to move in the matter in their report. I can quite conceive, and I think it is quite clear to the members of my profession, how that has arisen. In Wakefield there is a district probate registry. It is a large town, and there are a considerable number of solicitors there. There is also a very large area outside in which solicitors practise, and they practise through the district registry and send their papers to the registry, and are willing to pay the small fee the registrar charges for assisting them in the preparation of their papers. The solicitors residing in Wakefield itself are very dissatisfied, because, if that practice did not exist, they would look to the solicitors residing in the provinces to send their papers to them, and they would present them to the registry and incur what are deemed, and properly deemed, agency fees; that is to say, the dual scale of agency charges, which the provincial solicitor, or his client, would find, as is set forth in the scale the Law Society publishes in its report dealing with this particular matter, from twice to three times and sometimes four times as much as he would pay to the probate registrar for the small fee that he charges. The same principle was involved when the Law Society itself in 1883, I think, took action against the big law stationers, Waterlow and Sons, who adopted the principle of receiving papers from provincial solicitors, engrossing the will, preparing the papers, or giving them certain assistance, and presenting the papers at Somerset House. The Law Society took proceedings against them to endeavour to prevent them doing that. The Law Society was unsuccessful. At the present time Waterlow and Sons, and quite a number of other law stationers in London, are in very close competition with each other in order to obtain the business of the country solicitors and present their papers to Somerset House. That in itself has tended very much against

the members of my profession in London, who, prior to that, received the papers from the solicitors in the provinces and made their legal charges to them, proper legal charges, but which amounted to considerably more than the solicitors pay the law stationers in London. I think that is the nut which the Law Society are endeavouring to crack. Very rightly, the Law Society are endeavouring to protect the interests of the profession.

52,949. That is hardly the point, is it. Here is a public servant who is a probate registrar, and he receives money from the public for doing work. The suggestion is that that is not desirable. I do not know that the Law Society, or any other society, has anything to do with this?—(Mr. Shadwell.) Of course, to understand that properly one must understand what the principle of the registry is. The principle of the district registries on their foundation was supposed to be the same as that of the Principal Registry; that is to say, the work is done entirely on personal delivery of papers; there is no such thing as correspondence at all. That system does work in London, because the solicitors' firms are all resident in London, or are acting as agents for those residing in the country.

52,950. No, indeed, not if you think of it. Forgive me for interrupting you. I do not think it bears it out. For instance, take London, and supposing somebody resides at Reading or Brighton, what is he to do? He comes up or sends up to London. If he is at Brighton he might go to Lewes, it is true, but it is not likely; he would come to London. And, similarly, if at Reading, he would come to London; he would not go to Oxford. He will either have to come up to London or communicate with somebody in London. It is exactly the same thing, as far as I can see, with regard to the district registries?—The principle being that all applications are to be made by personal delivery and personal attendance and not by correspondence, the same principle was observed at the district registries. Then it was found to be inconvenient for the solicitors coming from different parts of the country to have to come up to the registry town to present papers, and it was suggested that they should be allowed to send their papers by post. That was not according to the rules of the court, and therefore it could only be done by consent of the registrar. The registrar in consenting to receive applications by post required to be remunerated for his services which were outside what he had undertaken to do. Any district registrar is entitled to say that he will not conduct correspondence, and that he will require every application to be made by personal attendance.

52,951. (Chairman.) Your suggestion is that this system was introduced for the convenience of the profession and the public, and is an addition to the duties for which district probate registrars were and are still appointed?—That is so.

52,952. And you represent that it is a matter of public convenience that this system should continue?—Undoubtedly.

52,953. If the probate registries, including the Principal Probate Registry, were thrown open to applications by correspondence, then it would become part of the duties of probate registrars to receive applications in that way?—It would.

52,954. This question has been raised at intervals for a long time, has it not?—It has.

52,955. On one of those occasions did the Treasury lay down that if at any future time applications by correspondence were introduced, the registrars would have no claim for compensation for the abolition of fees for such work?—I do not think that that is quite the construction which the Treasury intended should be put upon their minute. The statement to which you are referring is contained in the Treasury Minute of 16 March 1861, when salaries for the district registrars were fixed. The words used in the Treasury Minute are: "Although their Lordships are of opinion that it is not desirable that the district registrars should derive any profit from acting as agents for professional men in matters connected in any way with the business of their registries." This is not a question of acting as agent for professional men; it is a question only of

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correspondence with them, and receiving papers by correspondence instead of direct.

52,956. Was not it this system that the Treasury referred to in speaking of "profits from acting as agents for professional men"?—Yes; but I think they misunderstood the system, or at any rate it was misrepresented in this minute, and that they would not have used those words if they knew the system as it now exists.

52,957. But, in fact, in using those words they refer to the system as it exists?—They refer to the system as they understood it, but not as it is. In going on they say: "In fixing the salaries to be henceforth received" by district registrars, they desire it should be fully understood that if Parliament should hereafter decide "to restrict or altogether prohibit the business of the district registries in this respect, the registrar shall have no claim to increase of salary or compensation for the profits of which they may be thereby deprived." That, I take it, referred only to district registrars whose salaries were those fixed by that minute. "If they should decide to restrict or altogether prohibit the business," not if they should impose the same duty upon them without further salary.

52,958. You suggest that if a further duty was imposed upon them in that respect they would have some claim to reconsideration of the salaries?—I should say so.

52,959. The question has been raised as to whether this system is permissible, having regard to Rule 5 of the Rules and Orders of 1863?—I do not think that has any reference to the practice of a public officer.

52,960. The terms of that rule are as follows: "No district registrar or clerk in a district registry shall directly or indirectly transact business for himself or as the proctor or solicitor of any other person in the district registry to which he has been appointed"?—He never does. This correspondence is not acting as a solicitor.

52,961. Your view is that it does not constitute action as proctor or solicitor?—Clearly not. (*Mr. Alms.*) Nor, may I say, as an agent. If you come to define the word "agent" he is not acting as the agent, particularly in the sense that the London solicitor acts as agent for the country solicitor in presenting papers where he makes a dual scale of charge, presents the papers, and performs the duty of presenting those papers completed. This is a mere act of assistance and guidance on certain questions raised.

52,962. (*Mr. Coward.*) Is not that what a London agent does?—Not in the matter of presenting papers to Somerset House, no. (*Mr. Shadwell.*) It is in fact doing by letter what would be done by word of mouth. If the solicitor instead of sending his papers by post delivers them in person, the errors in them are pointed out to him by the registrar verbally. (*Mr. Alms.*) And you would not call the registrar the agent of the provincial solicitor if the provincial solicitor attended personally at his office.

52,963. (*Chairman.*) You told us that if this was not done by the registrar—taking the case of Wakefield, for instance—a Wakefield solicitor would have to present the papers?—(*Mr. Alms.*) He would hope to; but my experience as a solicitor is that the provincial solicitors would not employ the Wakefield town solicitor, because they have a very reasonable objection to the business of their respective clients being known to solicitors in the same locality. That is a very strong objection indeed.

52,964. You mean they would go to the Principal Registry?—They would probably send to the law stationer in London, who does it for a very small fee indeed; that is to say, the papers must all be in order and sworn, and if any questions on points of practice and so on arise they would probably send them to a solicitor in London.

52,965. But supposing a man wished to take out the grant in Wakefield and employed a Wakefield solicitor to present the papers, would what the Wakefield solicitor would do for him differ materially from what the registrar does for him under the present system?—(*Mr. Shadwell.*) Entirely.

52,966. In what respects?—What the Wakefield solicitor would do would be merely to bring the papers to the registrar and receive from the registrar the information which would otherwise be given direct by letter to the original solicitor, and the Wakefield solicitor would have done nothing but act as agent in the delivery of the papers.

52,967. (*Mr. Coward.*) The registrar would then get no fee and the solicitor would?—That is so. The original solicitor would have gained nothing.

(*Mr. Coward.*) Perhaps not.

52,968. (*Mr. Boutwood.*) So what is done by correspondence does not go beyond what in other cases is done verbally?—That is so.

52,969. It is a mere substitute?—That is all.

52,970. It does not go beyond that?—It does not go beyond that. (*Mr. Alms.*) May I say that one great advantage which it gives to solicitors is expedition, and that they are essentially desirous of securing. If papers were sent to London that expedition would not exist; delay would be incurred; and if the papers completed and sworn were incorrect in any respect, they would be returned from Somerset House, and there would be further delay, much to the annoyance of the country practitioner.

52,971. (*Chairman.*) In many of the district registries there are a large number of ancient wills preserved?—(*Mr. Simpson.*) There are.

52,972. Are the arrangements for the custody of those wills and their protection against loss by fire adequate and satisfactory?—In Lincoln and York I had very good strong rooms, and I have mechanical means for putting out fires, and buckets of water; in fact I think the arrangements are as good as in London.

52,973. Are there ancient wills at Taunton and Bodmin?—(*Mr. Shadwell.*) At Bodmin there are, and since I have been registrar the Office of Works have paid attention to the condition of the strong room, and have made a new roof in reinforced concrete. (*Mr. Alms.*) At Taunton we also have a considerable number of ancient records, and I also drew the attention, shortly after I was appointed, of the representative of the Office of Works to the strong room existing there, and asked him whether, in his opinion, it was secure against fire. Certain alterations were made, and also there was the provision of certain extinguishing appliances. With reference to the documents themselves, I may say that I receive very great assistance from Mr. Fry, of the National Record Society. I think Somerset was one of the first counties to which the society sent its representatives. The ancient records are very ancient, as you are aware, and have to be preserved very carefully. The paper is very brittle, and I myself had them placed in cases before Mr. Fry came, and since then, on Mr. Fry's recommendation and with the assistance of the National Record Society, they have been bound in more secure cases, and in every way are preserved in their present state and condition in a manner which I think would meet with the approval of everybody.

52,974. Do you consider that it is for the public convenience that these ancient records should be preserved locally rather than at a central office?—(*Mr. Shadwell.*) Certainly. (*Mr. Alms.*) I do, certainly. We are constantly having local references to ancient documents. The representatives of the local archaeological society are constantly making references to these old documents and ancient wills where names occur. I think it would be a very great inconvenience indeed if documents were moved from the local centre.

52,975. (*To Mr. Simpson.*) You wish to call attention to a statement by Mr. Musgrave in his evidence, that a district registrar, as such, is not qualified for appointment as registrar in the Principal Probate Registry. Do you wish to make any correction of that statement?—District registrars are qualified to become registrars of the Principal Registry, as such, under Section 8 of the Court of Probate Act, 1858.

52,976. That is to say, they are not qualified "as such," but are qualified if they have previously served for five years in the Principal Registry?—Yes; barristers and solicitors would be qualified as barristers or solicitors.

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52,977. Yes; but in neither case does the qualification arise from the fact that they are registrars, but from the fact that they have served five years in the Principal Registry; and in the other case that they have all qualified as barristers or solicitors?—Yes. (*Mr. Shadwell.*) I would refer to question 46,532: "Clerks to the district registries are really private clerks of registrars paid out of public money?" And Mr. Musgrave said, "Yes, they are paid out of public money." Whether he meant "yes" to apply only to the statement that they are paid out of public money does not appear. If it is understood that it means "Yes, they are private clerks to the registrars," then I should say that his answer was distinctly not in accordance with the facts. They are public clerks and not private clerks.

52,978. You represent that they are public clerks?—Yes, and in no sense private clerks of registrars.

52,979. They are, as a matter of fact, appointed by the district registrar with the approval of the President?—Yes, and under protest, as they have no power to do it.

52,980. (*Mr. Boutwood.*) With reference to the suggestion about a contributory scheme of pensions, one of you said that the salaries paid to the registrars' clerks would not permit of deduction towards a contributory scheme. As, perhaps, you are aware, there is a very large contributory scheme in connection with the railways, and I think I am right in saying that the general range of salaries in, say, the Railway Clearing House, is appreciably lower than the scale of salaries to the district probate registry clerks. Of course, nobody thinks his salary can bear any deduction—that is the general proposition—but it only occurred to me whether you had taken facts like that into full consideration when you gave that answer—that we have contributory schemes in this country for pensions where scales of salary are not higher, and, probably, are appreciably lower, than those we are concerned with now?—(*Mr. Alms.*) Would you consider that the two classes were holding quite the same position?

52,981. That is almost a different point.—It involves the principle of the capability to contribute, does it not?

52,982. With regard to those old documents, are they at all classified or indexed?—Yes, they have been indexed most admirably at Taunton by the National Record Society.

52,983. All over the country?—In Taunton and in certain other counties, because Mr. Fry, who represented the National Society, very kindly made me a present of the index of another county in which I was interested.

52,984. The National Record Society is a private society?—Yes, it is a private society.

52,985. But so far as either the central or local registrars are concerned, they do not do that work?—Not indexing. (*Mr. Shadwell.*) As a matter of fact, when I went to Bodmin I found the old wills very imperfectly indexed, and very ill-sorted—hundreds and thousands of them out of their places. I went through every document myself, made a complete new index, and put them all in perfect order from the earliest date down to the end of the eighteenth century. (*Mr. Simpson.*) At Lincoln we did something similar, only I did part of the clerk's work while he did the indexing, because he was an expert; he did it, and I gave him time in that way to do it.

52,986. (*Mr. Graham Wallas.*) (To *Mr. Simpson.*) You had experience in the central registry?—Yes.

52,987. And you understood it was the custom in the central registry that no correspondence was dealt with?—No applications for grants by correspondence were dealt with.

52,988. You have had experience of a registry in which correspondence does in fact come in?—Yes.

52,989. Do you think it would be an advantage to the public if a custom were adopted in the central registry of correspondence being answered and allowed in that way?—Yes, I think it would. It is not quite to the same extent, because the London solicitors are all round there

52,990. Supposing the Government should agree to that principle, and should direct that letters, with regard to probate, received at the Principal Registry, shall be answered, do you conceive that any clerk in that registry would have any claim for compensation on any other ground than that it was impossible for him in his working hours to do the work? Could the clerks ask for extra payment on any other ground than that it was impossible for them to answer the letters during their official hours?—That would be the only ground.

52,991. Supposing the same thing happened with regard to the provincial district registrars, that you were directed to answer letters; again, would there be any claim for compensation on any other ground than that the answers could not be written during your official day?—Compensation would be required because we lose the pay which, when we accepted the registry, we expected to get.

52,992. The Government say that you are directed, as part of your official duties, to answer certain letters?—Yes.

52,993. And the same direction is sent both to Somerset House and to the district registries. You say that in Somerset House the only claim for extra payment could be, that it was impossible to answer the letters in official hours. In your case you say there would be a further claim for extra payment?—Yes, because we suffer from loss of the extra fees.

52,994. Do any letters come to you which you do answer, without charging anything, in your district registry work?—All the customs and excise work entails a certain amount of correspondence.

52,995. Do any letters come in from the public which you answer without charging the public?—There are a certain number of letters to the public we charge for. I should not charge for answering the letter of a man who wrote up to know whether he could prove a will—I mean a personal applicant—for answering his letter.

52,996. Then it is a matter of some difficulty to decide whether, with regard to a particular letter, you will charge or not?—I never have experienced any difficulty. I should not charge poor people who wrote to me any fee at all. I charge the solicitors when they send their cases to me.

52,997. You conceive that you would be entitled to charge the poor people a fee, only in your kindness you do not?—No, I do not think I should.

52,998. Could you give us, in two or three words, a statement of what letters are received from the public, the answering of which is charged for, and what letters the answering of which is not charged for?—The letters I charge for are the letters asking me questions relating to grants—a solicitor sending in papers.

52,999. I am talking of the public?—A solicitor being a member of the public, I charge for all the letters I write to solicitors with reference to their grants, and I charge if a person wishes a search to be made; that is all.

53,000. Then an ordinary member of the public, writing for information about probate, and not through a solicitor, personally, you do not charge?—No.

53,001. Is that the case with regard to Bodmin, for instance?—(*Mr. Shadwell.*) On the general principle, one considers one answers no letters at all, and if one does, one is entitled to make a charge.

53,002. Then the principle on which you go at Bodmin is not the same principle that is acted upon in York?—I will not say it does not come to very much the same thing in the end, but the principle is that I am entitled to charge for every letter I write or to refuse to answer any letter.

53,003. Is that the principle at Taunton?—(*Mr. Alms.*) That is the principle at Taunton. I cannot say it has always been acted upon.

53,004. This is of great importance to the public. The principle is that no letter is written from your office without being charged for?—(*Mr. Shadwell.*) That is the principle, yes. (*Mr. Alms.*) Yes, that is the principle.

53,005. Is that principle invariably acted upon in your office?—(*Mr. Shadwell.*) No. (*Mr. Alms.*) No.

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53,006. What are the cases in which it is not acted upon?—(*Mr. Alms.*) In cases of poor people. (*Mr. Shadwell.*) If a person writes to know whether he can come to the office on such and such a day, being a personal applicant, I should write and say he could or could not, or write telling him to go to the Revenue Office, or something of that kind, without making a charge.

53,007. You conceive that you would be entitled to make a charge in that case?—Certainly.

53,008. But as an act of grace you do not make a charge?—That is so.*

53,009. You have in York a clerk who has the misfortune to be very deaf?—(*Mr. Simpson.*) Yes.

53,010. What is his age?—78.

53,011. He draws his full salary?—Yes.

53,012. If he had been superannuated he would have drawn something less than his full salary?—He could not be superannuated.

53,013. But if a superannuation scheme had been in existence and he had been superannuated, he would have drawn something less than his full salary?—Yes.

53,014. And if he had been superannuated on the ground of inefficiency he would have drawn something less than that which would come to him as a consequence of superannuation on the mere ground of age?—I think the superannuation is a fixed amount—for so many years' service, one-sixtieth for each year.

53,015. Even although it is an allowance given before the completed period of 40 years or before the age of 60?—Yes.

53,016. If he had been superannuated before the age of 60 on the ground of inefficiency, he would have got less?—He would have got less than the full salary.

53,017. (*To Mr. Alms.*) What are your official hours at Taunton?—9.30 to 4 o'clock.

53,018. 9.30 to 4 every day. I want you to think of those days in the year when there is practically no probate work to be done. There are such days, are there not?—No matter of extracting a grant.

53,019. Do you on those days require the officials to come perfectly punctually at 9.30 and stay the whole time until 4 o'clock?—Certainly. We never know when a person may walk in with a personal application.

53,020. What in fact on such days do they do from 9.30 to 4 o'clock?—There may be correspondence—there generally is—to answer. Questions of searches for wills are very frequent.

53,021. (*Mr. Coward.*) Of course the wills are all indexed?—They are indexed, yes, but they have to be replied to and dealt with in some way, and searches made sometimes.

53,022. (*Mr. Graham Wallas.*) You told us that the National Record Society arranged and paid for the indexing of your wills. Who did that actual indexing?—Mr. Fry.

53,023. Did he have assistance from your clerks?—No, he brought down his own lady assistant with him.

53,024. And your clerks gave him no assistance?—I cannot say they did not assist him. They gave him assistance so far as they were constantly to and fro for him, giving him the necessary documents. A great number of the documents were out of place and so forth.

53,025. Can you say, looking back, say, to the year 1913 or 1914, that during that period no one of your clerks answered a letter on probate business between 9.30 and 4 p.m. for which a charge was afterwards made?—No, I cannot.

53,026. Then between 9.30 and 4 p.m. they do answer letters for which charges are made?—Yes.

53,027. You hold several other offices in Taunton?—I hold two others.

53,028. Can you say that during the last two years no clerk between 9.30 and 4 p.m. has done in your office any work arising from any one of your other offices?—Do you mean during the hours.

53,029. Yes, between 9.30 and 4 p.m.?—Occasionally, when there has been no work there and when there

has been something that it has been necessary to do in my own office, I have got a clerk to attend to it, but in no way to detract from his duties in the registry.

53,030. As long as his duties in the registry are adequately performed, do you think yourself free to direct him to do work for which you are paid?—As a rule he has got his duties there which occupy his time. As I say, occasionally it may be he is free.

53,031. (*Mr. Coward.*) In the case of large estates the probates are usually granted in London and not dealt with in local registries?—I would not say that.

53,032. Would not you say that the greater part of the large estates are dealt with in London?—I do not know whether there is any record of that, but there are quite a number of large estates dealt with in the district registries.

53,033. Then the district registries you would say are not confined to benefiting the poorer classes?—Not entirely.

53,034. Upon the question the Chairman asked you with regard to amalgamation with the district registries of the High Court and whether that would not be practicable?—Are you also including the County Court registries?

53,035. I do not know about the County Court, but the district registries of the High Court?—In the provinces, as I dare say you are aware, at any rate in the smaller districts, the High Court and County Court registries are in the same office.

53,036. I do not care about that, but I am dealing with the High Court. Would there be any difficulty in amalgamating the Probate registries with the High Court registries?—That involves the performance of two duties, the qualifications for which are entirely distinct.

53,037. Quite right. I would suggest to you that you must have, if you are going to do that, some one at the office who understood this class of work?—Unquestionably.

53,038. If you had one person there who understood that class of work, would not you do it perfectly well?—I should say so, if that one person were the responsible head, yes. You must have a responsible head for both duties.

53,039. He need not be the registrar of the court if there is somebody there who understands the work, and how it ought to be done, and what is necessary to be done. That is the question I am putting to you?—If I may say so, I think the registrar of the High Court is responsible for the High Court in that district, and he is held responsible for the duties fulfilled and performed in his office. Similarly, if he undertook the office of district probate registrar, he would be held responsible for that.

53,040. I should like to ask your colleagues the same question—whether that would not be a perfectly feasible way of doing the work that has to be done in the district probate registry?—(*Mr. Shadwell.*) As I understand it would mean simply this, that there would be a person in the office with the full qualifications now enjoyed by the district registrar, but that he would be called by a different title.

53,041. But he would not have the staff. This title arrangement costs very nearly 45,000*l.* a year?—The cost of maintaining the probate registries, but I do not see how the work which is done by the probate registries could be done otherwise.

53,042. I do not know whether you happen to know a registrar named Mais. We have had him before us?—I know him.

53,043. He does this work, and does the other work, too?—Some of it. There are two registrars, and Mr. Mais attends to the Probate registry, and also to part of the High Court registry.

53,044. Quite right, and he finds no difficulty whatever with it?—No, I do not know why he should.

53,045. I thought it right to ask your view about this?—There is no High Court registry at Bodmin. If there was I am not prepared to say that I could not perform the duties of it; and if the work was not enough with the probate work to require more than my whole time, I could do it.

* So clearly is it established that correspondence forms no part of the duty of the registrars that no right of franking and no allowance for postage is granted to them.—W. H. L. S.

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53,046. (*Sir John Kempe.*) (*To Mr. Alms.*) Would it be possible for you to give us any idea of the amount of fees that you have taken for your correspondence work outside your official work, so to speak—I mean connected with your official work, but not paid for as official work?—I have not got the account with me, but in my registry, speaking generally—there may be a few pounds one way or the other—I should say last year it was about 75*l*.

53,047. (*To Mr. Shadwell.*) Could you answer the same question?—At Bodmin it is about 200*l*.

53,048. (*To Mr. Simpson.*) Could you answer that question?—Do you mean what I myself have, or what the clerks have?

53,049. For correspondence?—The total of the correspondence?

53,050. For extra official work?—About 140*l*.—that is the clerks' and mine.

53,051. (*Chairman.*) The sums which you mentioned are finally received partly by yourself and partly by your clerks?—(*Mr. Shadwell.*) Received by ourselves, and some of the amount is allowed to the clerks.

53,052. Corresponding to the amount of work the clerks do in respect of that correspondence?—I should not put it quite in that way, that it corresponds to any work, but I say in consideration of the registrar receiving this extra payment, and in consideration of the insufficient salaries which the clerks receive for their public duties, the registrar is generous enough to make them small allowances by way of increment to their salaries.

53,053. (*Sir John Kempe.*) When made registrar you undertook not to practise in your own registry. Does that also mean that you do not practise in any other registry?—(*Mr. Alms.*) I am enabled to practise in the Principal Registry.

53,054. But not in the other district registries?—Yes, I am permitted to practise in any other district except my own. The prohibition extends only to my own district registry; that is to say, I cannot peruse and settle my own papers and pass them and decide upon my own points of practice.

53,055. But is there any practice in other registries, as a rule?—Yes. Occasionally I have had cases that have arisen in other districts, although I must say that those cases I generally send to London, but there is nothing to prevent my taking out a grant in another district registry if the person dies within that district.

53,056. Might not rather awkward positions arise sometimes. I suppose some questions are common to two registries at times, and would not it be awkward to be practising in another registry having regard to the duties in your own registry. Will not the duties clash sometimes?—I do not think so. If I received papers from another solicitor registrar I should deal with them quite as carefully as I should the papers received from another individual.

53,057. As to the qualifications for a probate registrar, I think you are of opinion generally that the qualification of having been a probate registry clerk is the most useful one?—Unquestionably.

53,058. But the qualification of having been a solicitor is also useful?—I think so.

53,059. A clerk in a probate office would have time to study and to pass the solicitors' examination, would he not?—(*Mr. Shadwell.*) Yes. Clerks who have entered the Probate Registry in London have become qualified as barristers.

53,060. And they also could become qualified as solicitors?—I do not know that they could, because being articulated to a solicitor would interfere with their services in the registry—not otherwise.

53,061. Would not it be a useful thing if the qualification for becoming a registrar could be to have passed the examinations for a solicitor without reference to

five years' practice?—I think it would be very difficult to carry that out in practice, because during the time when he was serving his articles and learning the profession of a solicitor he could not be serving in the Principal Registry. I do not think a solicitor who had passed his articles and got his certificate would care to enter as a clerk in the registry after that.

53,062. You mean, it is not merely the examination, but you have to serve your articles as well?—You do.

53,063. But still you might require an examination to be passed to show that you are qualified as far as knowledge goes in certain legal branches such as are required for a solicitor's profession. A probate clerk need not necessarily know anything about solicitor's law, so to speak, but he picks up his knowledge in the probate office, but you say solicitor's knowledge is very useful too. Would not it be a good thing to require a clerk to have passed the solicitor's examination, or something equivalent to it, and then make the probate service of five years equivalent to a solicitor's practice of five years—and make those two interchangeable?—(*Mr. Alms.*) He could not be admitted a solicitor under such conditions, because the requirements are, first, that he must be articulated and must give his whole time and attention to his employer in his office, and he must not receive a salary or do other work whilst he is under articles.

53,064. Still he might pass an examination equivalent to the solicitor's examination to show that he has the knowledge?—That, of course, might be done.

53,065. (*Mr. Graham Wallas.*) I understand you to say that if a will requires a grant of probate in your district it is forwarded through you to the Central Office, and you charge fees as a solicitor?—Do you mean send to London? I do not quite follow.

53,066. You said that while you were not allowed to practise as a solicitor in your own registry you are allowed to charge fees for forwarding to London a will to be proved in the Principal Registry?—I am allowed to extract a grant. I thought you meant fees *qua* registrar.

53,067. No, I mean as a solicitor.—As a solicitor, yes.

53,068. That is to say, if your client chooses to have his will proved in London, then you charge fees as a solicitor?—Yes.

53,069. If your client chooses to have his will proved at the local registry of which you are registrar, you charge no such fees?—No, I could not do it. I would not allow him to do it. I should say "No; you will have to go somewhere else," and if he elected to stand by me, I should say, "I cannot pass your will through the local registry; it must go through London, because I am prohibited from practising in my own registry."

53,070. (*To Mr. Shadwell.*) Do you sometimes act as a solicitor, sending wills to London to be proved there, and charging as a solicitor?—I am not a solicitor and cannot act as one.

53,071. That point would only arise when the registrar is also a solicitor?—(*Mr. Alms.*) Yes.

53,072. Do you think that it is an entirely satisfactory arrangement?—That I am able to take out a grant in London?

53,073. The fact that there is a choice in the mind of your client whether he will prove his will locally, in which case he gets your services for nothing?—No, he would not get them at all. I am precluded from practising in my registry.

53,074. He could take them to you personally, in which case you would be able to charge him nothing?—That is a personal application; I am afraid it is rather a supposititious case, because as a rule they place confidence in their solicitors, and they do not mind from what registry it is extracted so long as they get the grant of probate.

Mr. A. E. DAVIS (Chief Clerk, District Probate Registry, Durham), accompanied by Mr. J. E. LISTER (Liverpool) and Mr. R. W. JONES (Chester), representing the District Probate Registry Clerks Association, called and examined.

53,075. (*Chairman.*) (*To Mr. Davis.*) You are Chief Clerk in the District Probate Registry at Durham?—Yes.

53,076. Are you also Chairman of the District Probate Registry Clerks Association?—I am.

53,077. How far is that association representative

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of the whole number of clerks in the district probate registries?—I think there are four registries who do not subscribe to the association, but in at least one case or two cases we have had donations from some of the clerks—about four registries out of the 40.

53,078. In the case of the 36 who do belong, do all the clerks in each registry belong?—I should say, yes, speaking from memory. All the clerks at Wakefield do not belong to it, but I think that is one of the four that I reserved.

53,079. Your association, in any case, represents a great majority?—A very large majority.

53,080. How long have you yourself served in the Durham Registry?—22 years, and before that I was at Worcester from 1863 to 1893, and from 1893 to the present time I have been at Durham—51 years odd in all.

53,081. At what age did you enter the Worcester Registry?—I think I was 15; just after I left the cathedral school.

53,082. You went there straight from school?—I went to King's Scholars' School, connected with the cathedral, in which I gained a foundation at that time.

53,083. You wish to make representations partly on the question of salary, but more especially on the question of pensions or retiring allowances?—I do. I think the latter is of more importance excepting in the small registries.

53,084. Dealing with the question of salary first, what is your representation on that point?—What we think is that the promotion is so exceedingly slow, that a man who enters a registry is sometimes stationary for as much as 20 and even more years before he is moved on. In some of the smaller registries, until he gets the chief clerkship, he never reaches a maximum of more than 150*l.* a year. I could give you one or two instances if you wish it. That would, probably, dealing with the facts, be better. I have prepared a return which I thought might be of use to the Commission. It has been obtained by a form of return being sent to each registry, and asking the chief clerk, or some other member of the staff, to fill it up. The return gives the name of the registry; the name of the clerk; his position in the registry; date when first appointed; date of promotion, if any, showing the date of each promotion, if more than one; number of years' service; the number of grants for 1914, and the average number of grants for the last three years; and his present salary per annum.

53,085. Will you hand that to the secretary?—I will. It is rather rough, as I have only got the return out within the last week or two. I asked them to send in the return as soon as I knew we were coming before you. I may say that, with regard to some of the lengths of service, I should like to reserve them, and as I am not quite sure whether, in some cases, a clerk may not have put down his entrance into the Service as a copying clerk, and may not have been on the staff; but I think in nearly all cases it is all right, and that they were on the staff at those dates.

53,086. Your representation is, that the system under which fixed salaries are attached to each clerkship results often in a man remaining stationary at the same salary for a number of years?—Yes; I would like to give you an instance. Just take Carlisle: The present chief clerk was appointed in 1858 at the commencement of the Probate Court, and he has been there ever since in the position of chief clerk, I think.

53,087. Has his salary not varied during the whole of that time?—I think not. I am not sure whether he got less, but I have given his salary now.

53,088. His salary now is 200*l.* a year?—Yes, and he has been there since 1858. The second clerk entered the registry also in 1858, and was appointed to his present position of second clerk at a salary of 150*l.* in 1885.

53,089. Did I understand you to say that in no case did any clerk, except the chief clerk, receive more than 150*l.* a year?—I should think not. I am not able to answer that question.

53,090. I see the second clerk at Lancaster, for instance, receives 200*l.* a year?—It is a much larger registry. I ought to explain that, so far as I know,

since the Treasury have paid the salaries, they have always been paid on the scheme that was fixed by Lord Penzance, and that scheme I could give you a copy of if you have not one already.

53,091. We have it.—That scheme fixed the salaries according to the number of grants passed in the registry. They are classed under different headings—1,200 to 1,500—and so on down the scale; and the chief clerks of the larger registries under that scheme get larger salaries, and so do the other clerks, than those in these smaller registries.

53,092. It is not the case that, in the larger registries, the second clerk is limited to 150*l.* a year?—No.

53,093. I understood you to say so?—No, that is a wrong impression.

53,094. At Wakefield the second clerk receives 300*l.* a year and the third clerk 175*l.*?—Yes, that is the largest registry.

53,095. Do you suggest that salaries advancing by increments would be a more suitable system of payment?—I do, entirely.

53,096. Are you aware that increments do exist in certain cases?—I am not.

53,097. I see that at Liverpool two of the clerks have a salary which advances by increments?—My colleague will be able to answer that, because he is chief clerk there. (*Mr. Lister.*) That was the only instance, I think, where it was so arranged a few years since.

53,098. Was that arrangement introduced recently?—Yes, quite recently. He was a young man, and he was put on at 50*l.*, I think, and advanced 5*l.* a year.

53,099. Do you suggest that that system should be more widely applied?—(*Mr. Davis.*) I think so. I think it would give more satisfaction to the clerks.

53,100. Apart from the question of fixed salaries, or salaries advancing by increments, do you suggest that the general level of salaries is too low, having regard to the work to be done?—I do, in the smaller registries.

53,101. You do not suggest that in the case of the larger registries?—I do not, except in regard to the junior clerks. I think junior clerks in the larger registries even may have to wait a great number of years at a small salary. Take Wakefield, for instance, which is the largest registry, you will see there are three junior clerks there getting 65*l.* a year, and, if I remember rightly, one has been there 10 years or 11 years.

53,102. Longer than that, I think?—Yes, and they still get 65*l.* a year, and have had no advance. So that, even in the larger registries, it is, I think, necessary that some flow of promotion should be adopted, or that there should be annual increments.

53,103. What would be the nature of the work done by those junior clerks? Would it be mainly copying?—I am not quite sure about that.

53,104. Taking Liverpool, I see you have, besides the established clerks, two copying clerks there?—(*Mr. Lister.*) Yes.

53,105. Is the whole of the copying done by the copying clerks, or do some of the established clerks do copying?—In the quiet season in the autumn some of the salaried clerks would do copying. Otherwise they have no time for it, but are occupied in general office work.

53,106. Have you made any comparison between the salaries paid to the junior clerks in these registries and the salaries paid to junior clerks in a private solicitor's office?—(*Mr. Davis.*) I have not made any comparison.

53,107. The other point on which you wish to make representations is the question of pension?—Yes, and the slowness of promotion.

53,108. The question of the slowness of promotion you have already dealt with in speaking of the question of salary. Do you wish to add anything on that question?—No.

53,109. On the question of pensions, would it be correct to say that you make representations on two grounds: In the first place, on a technical ground with reference to the legal position of the clerks and the interpretation of the statutes bearing on it; and in the second place on what I may describe as the equitable ground; the nature of their work; their position

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as public servants, and other considerations of that kind?—Yes.

53,110. Dealing with the technical ground, that question is one which has been under consideration for a long time, has it not?—Yes, since our association was started, I may say.

53,111. And it has formed the subject of legal opinions both on the part of lawyers consulted by your association and also by the law officers of the Crown?—It has.

53,112. Those opinions have been somewhat various. Is it the case that counsel have expressed the opinion that the whole question is of an uncertain character, and that the interpretation of the statutes is a very difficult and doubtful question?—That is so; Mr. Danckwerts and Mr. Matthews.

53,113. What is the present position as regards the claim to pension and the decision of the Treasury on the subject?—The present position is this: that after taking the opinion of the law officers, Sir Rufus Isaacs and Mr. Simon, as they then were, they gave pensions to certain clerks who were appointed before 1873, or 1879, I am not sure which. I have the letter giving the result.

53,114. The result was that in 1912 the Treasury agreed that pensions should be given to clerks?—"On or after the date of the passing of the Supreme Court of Judicature Act, 1873, clerks who were required to give their whole time to their duties will be entitled to reckon their service for pension as from the dates of their appointment."

53,115. Has that decision been subsequently revised?—Yes, perhaps 12 months afterwards. The letter is dated 2 March 1914.

53,116. What was the effect of that letter?—The letter is: "I am instructed by the President to inform you that he has now received a final communication from the Lords Commissioners of His Majesty's Treasury stating that after consultation with the law officers of the Crown and upon reconsideration, the Lords of the Treasury can no longer regard clerks in District Probate Registries as entitled to any pensions under the Supreme Court (Officers) Act, 1879, and that they cannot make any awards of pensions to any of such clerks from this date. The President accordingly requests that all your clerks who entered the service prior to the 28th October 1879 may be informed at once of the decision of the Treasury." The law officers' opinion was that those clerks who entered the service prior to the 28th October 1879 were entitled to pensions.

53,117. And the Treasury, on further consultation with the law officers of the Crown, announced that they were not entitled to pensions?—I think so, but I am not sure whether it was the same law officers or not. I think Sir Rufus Isaacs was not one of the law officers when the question was reconsidered, though probably he would be consulted.

53,118. That is the present position of the Treasury and their final decision?—That is so, except that I may say that certain clerks did receive a pension and receive a pension now under that decision, and certain representatives of clerks who were deceased were paid the pension that the deceased person would have been entitled to had this decision been given before he died.

53,119. The Treasury did not go back on awards already made, but declined to make any further awards in future?—That was so.

53,120. The Commission do not propose to go into the detailed question of the interpretation of these statutes, which, as you have already said, is a matter of great difficulty, and has been pronounced to be very doubtful by various legal authorities who have been consulted. We think it more important to consider the other grounds which I mentioned, namely, the position of the clerks as public servants and the nature of their service, and any other considerations of what I may describe as an equitable kind, which may be put forward in favour of their claim. Will you deal now with that side of the question, and explain the grounds on which you think they have a good claim to be made pensionable?—The ground upon which I think they should be made pensionable

primarily is the slowness of promotion, the consequence being that the clerks are obliged to work until they are long past work, and if they can go to the office they go, and have to go. Their salaries having been so small for very many years, they are totally unable to save anything except in a few of the larger registries. Therefore I say it is detrimental to the public service that a man should be going to the office to do such important work, as we contend this is in the district registries, after the age of 65, or, in exceptional cases, perhaps, after the age of 70. But what has been the fact? Not so long ago there was one man at the age of 90 in, I think, the Lichfield registry, before he resigned. A man at Chester was 87. (Mr. Jones.) He is 95 now.

53,121. (Mr. Philip Snowden.) It seems to be a very healthy occupation.—(Mr. Davis.) Very healthy, no doubt, to some. I have some information as to ages, and it is gathered, I may say, not from the clerks themselves. I did not ask them their ages, but from a little statement I had some years ago from them, and I have added on the period since so far as I can; I will not pledge myself that these are actually the ages within a year or so. The number of our clerks is about 162.

53,122. (Chairman.) Is that the total number of clerks?—Yes. We have 28 clerks with between 20 and 30 years' service; 35 with between 30 and 40 years' service; 17 with between 40 and 50 years' service; 8 with 50 years' service and over, and some 57 years' service.

53,123. Your suggestion is, that the absence of any system of pensions results in men remaining in office after they have ceased to be fully efficient, and that that is detrimental to the public service and injurious to the individuals. Is that your argument?—Yes; it is injurious to the individuals, because it stops the flow of promotion.

53,124. What happens in the case of a man whose age is advanced and whose powers are declining?—Well, he goes to the office and does his best, no doubt. I am unable to speak individually as to whether anybody's powers are declining, but one takes it that they cannot be otherwise at that advanced age.

53,125. They are given as much work as they are still able to do?—I should imagine that they do the chief clerk's work in some way. I do not know how. Most of them would be chief clerks, but not all.

53,126. Do you suggest that if there was a pension system, men would retire, or could be called upon to retire, at a more moderate age?—Yes, at a more moderate age.

53,127. In that case, would you suggest a fixed age for retirement?—I think it should be 65, with exceptions. It could be left in the hands of either the district registrar or the President; if he found an exceptional man whom he wished to retain, he might be retained two or three years more, perhaps.

53,128. Are there further arguments which you wish to put forward in favour of a system of pensions?—I ought to say that we think the position of clerks in district registries is a very important one, and that they should be recognised in the proper way as Civil servants of the State, and in that way be entitled to pensions the same as other portions of the Civil Service in nearly all cases are. There are just one or two notes I made at the end of our statement which you have not got, but they are two or three notes I should like to ask the Commission to consider from the clerk's point of view. One is that if any doubt exists steps may be taken to recognise the district probate registry clerks as Civil servants of the State.

53,129. Your point in suggesting that is that they should be made pensionable?—Yes. As you know, counsel has considered them to be so, and counsel says we have been paid our salaries irregularly now the statutes are so confused.

53,130. (Mr. Coward.) Surely you would put your point from an entirely different point of view; that is to say, because of your position?—That is it, because of our positions, which we consider to be important positions, we think we ought to be recognised as Civil servants of the State.

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53,131. That is quite irrespective of counsel's views?—Certainly. Then the second point is that they shall be entitled to and shall receive superannuation allowance; that their lengths of service for such superannuation shall be retrospective and date from their appointment, so where appointed previous to the Judicature Act, 1873, they should be dated from when that Act came into operation; that the present staff shall not be required to pass a Civil Service examination. We think it would be ridiculous to ask men like myself and others who have got on in years to pass a serious examination at our ages; we probably would not be able to do it. Then we suggest that the scheme of salaries shall be revised and the salaries increased to a maximum by yearly instalments in each class.

53,132. (*Chairman.*) In suggesting a system of yearly instalments or increments, do you suggest an increase in the total amount paid, or would you be satisfied if the same total amount were distributed in such a way as to produce salaries rising by increments?—I suggest an increase in the smaller registries.

53,133. This suggestion applies specially to the smaller registries?—It does.

53,134. In the larger registries, do you consider that the total amount paid in salaries is sufficient if distributed in a different way?—I do not know how you would distribute it in a different way. I think the juniors want a little increase in the larger registries, too, but that would not be so bad if there was a flow of promotion. It is the want of promotion, the sticking at the same salary for so many years, and then there is no chance of bringing up a family and saving any money, and if ill-health overtakes a man he is done for and he gets into debt.

53,135. You suggest that a system of pensions and a fixed age for retirement would make a better flow of promotion and so remedy that difficulty?—Yes, I do, if there was compulsory retirement.

53,136. Does that complete your statement on the subject of pensions?—There is just one other thing: At a meeting of our association some time ago, it was decided that we should ask the President to make the chief clerks eligible for district registrarships. Some of them are now eligible for district registrarships, but one has never been appointed.

53,137. In what way are they eligible?—In this way: that clerks who were in the Consistory Courts before the Probate Court was established were made eligible, I think, under Section 20 of the Act of 1857.

53,138. Any clerks who are eligible under that clause must be of a somewhat advanced age now?—Yes, they must indeed.

53,139. Perhaps rather too old to be appointed registrars?—Yes; we do not suggest that they should be appointed, but they have applied and have never been appointed. A chief clerk applied for the last vacancy but was not appointed; he was eligible, and he did not retire until over 80 years of age.

53,140. You suggest that the clerks in the district registries should be made eligible?—We do.

53,141. That, of course, would require legislation?—It would. It should be on the same terms as the Principal Registry clerks are appointed; they are eligible under the same Act.

53,142. In the smaller registries are the clerks fully employed on the work of the registry?—I think so.

53,143. Does it take up all their time?—I think so.

53,144. In the very small registries where the grants are under 300 a year, and in one case, I think, under 200 a year, is there really enough work to employ two or three clerks in addition to the registrar?—At least two, I think. There is so much detail that unless you see the work it is most difficult for you to understand.

53,145. Have you experience of one of the very small registries?—Yes, I was at Worcester.

53,146. What was the number of grants there?—When I went there first I think it was between 500 and 600, and then it got up to over 600.

53,147. That is what you would call a middle-sized registry?—Yes.

53,148. (*Mr. Coward.*) There were three clerks there?—Yes, and a copying clerk.

53,149. (*Chairman.*) Was the time of the clerks there fully occupied?—Yes, fully occupied.

53,150. But there are some registries with between 200 and 300 grants a year where there are three clerks?—I could not tell from memory, but it is in the last part of the return I handed in. They are put in order of size as regards numbers.

53,151. Taking Taunton, there are three clerks, and the number of grants was 272 in 1913. At Wells there were 307 grants and three clerks?—Yes. I ought to point out that it is not only the actual present work of the day, but the office copies of wills that have been proved at a previous time are ordered, and in the registries where they have old records, as they have in nearly all these small registries, they being in cathedral towns, the time of a clerk is a good deal taken up by getting out wills for people who want to see them, and putting them back again. Sometimes at Worcester we used to have what we call a literary searcher who got an order from the President and would come down for days at a time. I have heard since that there has been a lady there who takes a great interest in that sort of thing and occupies the time of the clerks very largely indeed. The persons cannot be left with these old things in their possession without someone being in the same room. That, I would point out, takes up a good deal of time at some of the registries.

53,152. At the larger registries, at Liverpool for instance, are the clerks pretty fully occupied?—(*Mr. Lister.*) Yes, at Liverpool they are. We have no ancient records there, and have not any trouble of that sort.

53,153. What are the office hours at Liverpool?—The registry is open from 10 to 4.

53,154. Are the clerks ever occupied for longer hours than that?—Yes; coming at 9.30 in the busy times till half-past 5 or 6 o'clock.

53,155. What holidays do they have in the year?—The junior gets a fortnight, the third clerk gets three weeks, and the second clerk and myself four weeks; we both have been in the registry over 40 years, and, perhaps, it is on that account, partly.

53,156. (*Sir John Kempe.*) You say the salaries at the small registries are low. I suppose the gradations of salaries at different registries are fair. That is to say, compared with the work done, the salaries are, in proportion to one another, all right?—(*Mr. Davis.*) Yes, I think so. I think the chief clerk's salary being low the rest are low. There are a great number of chief clerks who do not receive more than 150*l.* a year—17. Then the second clerks in those cases do not get more than 100*l.*, and the third clerk, perhaps, 90*l.* or 80*l.*

53,157. But those salaries are fixed in proportion to the amount of work in each case?—They are fixed by the number of grants.

53,158. Does not the number of grants represent proportionately the amount of work?—I think not. I should like to say that it does not represent the ability required in a chief clerk.

53,159. No; but does not it represent about the same time taken up? One hundred grants would take about the same time in each office?—Yes.

53,160. And the same amount of labour of the clerks?—Certainly.

53,161. Therefore the salaries are fairly proportionate to one another, though they are rather too low?—I think that is so.

53,162. I do not understand how you would correct that. Both the fact that there are no pensions and that the scale of the salary is too low, are, of course, unfortunate matters; but how could you give a higher salary if the work is very light?—I can only suggest the amalgamation of a small registry into a larger one.

53,163. That points not to giving higher salaries but amalgamating registries with existing ones?—Yes; by that means they would get larger salaries and a flow of promotion.

53,164. (*Mr. Graham Wallas.*) In all registries there is a certain amount of correspondence which takes place, and which is paid for by the person writing to the registrar on probate business?—Yes; by the public and by solicitors.

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53,165. Is it not always the custom that a certain amount of the fees so received is paid to the registrars' clerks?—In the decision of Lord Selborne, I think, in 1883 or 1882, on the question of agency, he understood that it was divided between the registrar and his chief clerk.

53,166. What is the general scheme under which such division takes place?—I think it is a matter of arrangement between the registrar and the chief clerk. There is no scheme.

53,167. Do you know what the custom is normally?—Shall I tell you what it is at my own registry?

53,168. Yes.—The registrar gets two-thirds and he gives his chief clerk one-third, and the chief clerk then divides it again with his next clerk who assists him.

53,169. You spoke just now of office copies of wills that are ordered. Are those part of this agency business?—No.

53,170. The office copies of wills are ordered by whom?—They are partly one and partly the other. If a person comes into the office and orders an office copy, that is, of course, done by the clerks in the registry; there is no agency in that case; but if a solicitor writes to the registrar and asks him, as his agent, to send him an office copy, then the registrar orders the office copy to be done and sends it.

53,171. Then if a man comes into the office and personally asks for a copy of a will, he pays a fee which goes to the Government?—Certainly.

53,172. If he writes a post card asking for a copy of a will he pays much the same fee, but it goes to the registrar?—No. He pays the Government fee for making the office copy just the same; but he also pays a small fee to the registrar for obtaining the office copy for him and sending it to him when it is ready. He pays for the correspondence.

53,173. Do you know what that fee is?—Of course the registrar has to make the search and all that sort of thing for him, and I think the fee is 3s. 10d. for the search, and I think the registrar charges him 2d. a folio for examining it.

53,174. I want to contrast what happens in the two cases: (1) Where the man applies personally and all fees are paid to the Government; and (2) where he applies by letter, and certain fees are paid to the registrar. Does that examination of the office copy take place in the case of the Government?—I am not quite sure. If it is examined on behalf of the Government, there is a fee for examining of 3d. per folio.

53,175. And that goes to the Government?—Yes.

53,176. If the demand for a copy comes by post, the fee for examination goes to the registrar?—Yes, but he does not certify it to be an examined copy; it is what we call a "plain" copy. If it is certified, a fee of 3d. per folio is charged, which goes to the Government.

53,177. In addition?—No, not in addition to the registrar's 2d. a folio. The registrar gets no fee if the copy has to be certified.

53,178. Then it is a clear advantage to the registrar, first that any application for copies should be made by post, and next that a "plain" copy should be given instead of a certified copy?—I should not like to say that. We have to attend to them if they come; that is all I can say.

53,179. Supposing a copy of a will is wanted by post, for which a fee is going to be charged, in slack times is the work of making that copy ever done in office hours?—The copy is made in office hours, yes.

53,180. Is the copy checked in office hours?—I think not. No, I should say not.

53,181. Can you, on looking back upon your own experience for the last year, remember doing any work in office hours for which the registrar was paid?—Well, I have to examine all the papers when they come in, and I look at drafts. The registrar receives draft papers from solicitors requesting him to be good enough to settle them and send them back. We all get to our office at half-past nine in the morning and we stay until the work is finished. We do the work of the day in a day.

53,182. But part of your day's work is this agency work?—I must admit it is to some extent, but you see

there are lots of solicitors in the town and neighbourhood who come over during the day and bring drafts, and I have to look at them during the day.

53,183. (To Mr. Lister.) At Liverpool in the last year have you done, during office hours, agency work?—In dealing with the cases.

53,184. You have done work for which agency fees were charged?—Yes, correspondence, if we have been written to, would be done during office hours.

53,185. (To Mr. Jones.) Have you also done agency work during office hours?—The Government hours are 10 to 4. After 4 the time is my own, and I have to go back very often to do the Government work on that account, because I did the other work in office hours.

53,186. And you think it is the universal habit that in the registry the agency work is done during office hours?—(Mr. Davis.) I should think it was to some extent, but you must not forget that in my case the clerks are there at 9.30 and we stay until the work is finished.

53,187. You said you did not think it ought to be made a condition for your becoming pensionable that you should pass a literary examination for the Civil Service Commission?—That is so.

53,188. But you know there is another kind of examination for the Civil Service Commission, namely, an examination into a man's health. Do you think it is fair that a man, perhaps quite a young man, should be put on the pensionable list without any examination into his health?—I should say the present staff should be treated so.

53,189. Without any question as to whether they are stone deaf or not?—No.

53,190. Or whether they have consumption, for instance?—No. I think it might be put in this way—men of a certain number of years' standing.

53,191. But men may go deaf who have had only a few years' service, and other men may take these posts on the ground that they are physically incapable, and it is an advantage to have a light job?—I should not think so in probate registries. I think the registrars are too particular themselves.

53,192. But you do ask that the whole body of men should be admitted without any medical examination as pensionable?—I think it only fair to them if they have been in the service for a few years. They have undoubtedly made it what they intend to be their occupation in life.

53,193. How many years would you ask for?—I should say five years' standing.

53,194. Everybody of five years' standing?—Yes.

53,195. What would happen to the people under five years' standing?—It would be very hard lines upon them, too, I think, if they were asked to pass an examination. Men after they leave school after five years forget a good deal.

53,196. I am talking about a health examination?—I hardly know how to answer your question, it is such a personal matter with each clerk.

53,197. (Mr. Philip Snowden.) Would you mind explaining the way in which the clerkships are filled now? Are the appointments nominally made by the President, but in reality by somebody else?—The nomination is by the district registrar; in fact he appoints, and the appointment is approved by the President.

53,198. Have there been within your knowledge any instances where favouritism has been shown in the making of those appointments in which the relatives of those having the appointments have been put into these positions?—No.

53,199. There is nothing of that sort going on?—Not in my experience.

53,200. If some such scheme as that which you have been suggesting were adopted, that would mean that candidates for clerkships in the future would have to undergo an examination?—Certainly.

53,201. I suppose you have never considered that it was within your province to formulate anything in the nature of a scheme of examination?—Never.

53,202. You put forward the claim that all the past service should be reckoned for pension?—Yes.

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53,203. When these clerks who have 40 or 50 years' service were first appointed, had they any expectation of a pension?—The agitation for pensions has been going on since 1862, or about that time.

53,204. But there is a difference between an agitation for a pension and having an expectation?—I would hardly like to say an agitation. I would rather say a claim.

53,205. My point is, had these men when they were appointed to the clerkship, any legal expectation of a pension; that is to say, had they, as ordinary Civil servants, had any expectation of a pension?—No, I think not.

53,206. They knew the condition of their service when they entered and that the posts were not pensionable?—I think so.

53,207. Do you think the fact that these posts were not pensionable has had any influence in fixing the amount of salary?—No, I think not.

53,208. Do you think your salaries would have been what they are if you had had a pension at the end of your service?—Yes, I think they should have been. I think the very lowest salaries have been paid. Many of the old Consistory Court diocesan registrars, as they all were, were all appointed, in fact, when the Probate Court was established, as district registrars. Then they were invariably almost all solicitors, and they had a staff of clerks, and their clerks were taken over, I think, as a rule. Well, solicitor's clerks in those days—I have no experience of them now—were only poorly paid; not so well paid as Government servants by any means, I should say; and the same salaries as they were receiving as solicitor's clerks, I have no doubt, were fixed. That is the way I rather look upon it why the small salaries have been fixed.

53,209. Can you point to any case where a staff of public servants have been put upon the establishment and all their back service has been counted for pension?—I could not. I have not gone into that matter at all; but I think you are rather under a misapprehension. We rather think that we are entitled to pension since the Judicature Act was passed in 1873, and that the Act of 1879 gave it us—that it would allow the Lord Chancellor to give a certificate. We do not claim to go back to 1858 when a man was appointed or anything of that sort.

53,210. That is the point I was trying to bring out. I gathered that you were claiming, as in the case of the clerk at Carlisle who was appointed in 1858, that he should be able to claim a pension for all the years of service?—No, I did not mean that.

53,211. You meant you should go back to the time when you were given an expectation of a pension?—That is so.

53,212. That makes that clear?—It is 40 years since the Judicature Act.

53,213. Does the registrar apportion the salaries?—No.

53,214. It is done by the Treasury?—By the Treasury.

53,215. (*Chairman.*) That is to say, it is fixed by the scheme which was determined between the Treasury and the President of the Division?—And Lord Penzance. That scheme has never been revised, to our knowledge, and it is 50 years old.

53,216. The scheme was not fixed by the Treasury alone but by concurrence of the President of the Division and the Treasury?—Yes, the Treasury and the President.

53,217. Is it not the case that under the Statute the salaries are to be fixed by the Treasury and the President of the Division in concurrence?—I think that is so. I am not quite sure when this scheme of Lord Penzance came into operation, but it was, I think, soon after the establishment of the court.

53,218. (*Mr. Philip Snowden.*) I am not concerned about that matter. Have you made any comparison between your salaries and the salaries paid to County Court clerks?—No.

53,219. What would be the amount of these agency fees about which you were speaking just now—say, in your own office?—I get about 150*l.* a year.

53,220. And your proportion is one-third?—No, I pay the second clerk.

53,221. You get one-third of the total fees?—Yes.

53,222. So that makes it up to about 450*l.* a year?—Yes, more, because the registrar takes two-thirds, and I get a third. I could not tell you the exact amount.

53,223. That would be just 450*l.*?—But it gives me 150*l.* personally.

53,224. In addition to what your other clerk gets?—Yes.

53,225. (*Mr. Graham Wallas.*) What do you pay the other clerk?—He takes one-third of what I get.

53,226. Then he takes 50*l.* a year?—Yes.

53,227. Is there any other payment out of the third?—No, those are the payments.

53,228. It follows that the total amount is about 600*l.* a year?—Yes, I should think so.

53,229. (*Mr. Philip Snowden.*) That is an addition of 150*l.* a year to your salary?—Yes.

53,230. And your salary is what?—400*l.* now. It was raised after some trouble last year, I think.

53,231. So your income is really 550*l.*?—Yes, about that. The agency varies very much, of course. (*Mr. Lister.*) The agency at many of the registries is not so much as that. (*Mr. Davis.*) Ours is a very large correspondence registry indeed. I must mention that. We are a little town of 13,000 or 14,000 inhabitants, but we have a tremendous population right round us, and that creates a large correspondence.

53,232. I was not quite clear about this matter of the agency and the difference in the cost. I will give you a case: Supposing I wanted a copy of a will, and it consisted of 12 folios, and I come to the office for it, and I ask you to supply me with this copy, what would it cost me?—It would cost you 1*s.* for the search, and 6*d.* per folio, which is 6*s.*

53,233. That is 7*s.* altogether?—Yes, that would be a plain copy. If you wanted it examined and certified, it would be 3*d.* per folio more, which would go to the Government.

53,234. Then we will say 10*s.* for everything?—Yes, and that goes to the Government; 1*s.* for the search, 6*s.* for the copy, and 3*s.* for examining.

53,235. That is 10*s.* altogether?—Yes, and examined copies have to be put upon one shilling stamped foolscap. Every office copy that is certified to be an office copy has to bear a shilling stamp on the foolscap.

53,236. That is 11*s.*?—Yes.

53,237. Supposing I write for that, what would it cost?—It would be exactly the same Government fees as regards the search and the copy—that is, 7*s.* Then we should charge 3*s.* 10*d.* for writing the letter and the search. Then the registrar would charge 2*d.* per folio for examining, which he takes—that is 2*s.*—and another 1*s.** for the second letter.

53,238. What about the paper on which it is written with that 1*s.* stamp?—The foolscap with the 1*s.* stamp on it is obtained at the post office.

53,239. That is 13*s.* 10*d.*?—Then if it takes more than that foolscap sheet that we get, we have paper supplied by the Government to fit in.

53,240. That is the difference, and that difference goes in agency fees?—Yes.

53,241. (*Mr. Graham Wallas.*) More than that, because they not only get the 3*s.* 10*d.*, but also the 2*d.* per folio?—(*Mr. Lister.*) That charge for examining is not made at Liverpool, and perhaps not at other registries. (*Mr. Jones.*) Nor at Chester. (*Mr. Davis.*) I think this agency practice varies very much all over the country.

53,242. (*Chairman.*) In the case of a certified copy obtained by post, there is not a charge of 2*d.* for examining in addition to the 3*d.* for examining, and the charge for the certified copy?—No. The registrar has no examining fee then for himself; it goes to the Government.

53,243. In the case of a personal application not by post for a copy which is not required to be a certified copy, is there no charge for examining?—None, though we never allow one to go out without it being examined.

53,244. But there is no charge for it?—No charge for it.

* I should have said 1*s.* 6*d.*—A. E. D.

Mr. LEONARD WILLIAM KERSHAW (King's Coroner and Attorney, Master of the Crown Office and Registrar of the Court of Criminal Appeal), called and examined.

53,245. (*Chairman.*) What is the position you hold?—I am King's Coroner and Attorney, Master of the Crown Office, and also Registrar of the Court of Criminal Appeal.

53,246. How long have you held those posts?—My present offices I have held since the 16th January 1912—three years and a month or two.

53,247. And before that?—Before that I was assistant registrar in the Court of Criminal Appeal for just under four years. I was first appointed in May 1908.

53,248. Was that when the Court of Criminal Appeal came into existence?—The Court actually came into active existence on the 19th April, which was an Easter Saturday. My appointment is dated 25th May, and I had not heard anything about it until a few weeks before that, but there were only two or three Courts, I think, which sat before I was assistant registrar.

53,249. Before that, had you practised at the Bar?—I had practised before that at the Bar for just over 22 years, chiefly at the Criminal Bar.

53,250. Will you tell us briefly the nature of the matters dealt with in the Crown Office?—Really the chief matters are the following: the filing and entering of the appeals to the King's Bench Division. Those appeals are appeals from quarter sessions or from petty sessions, chiefly by way of special cases stated; there are appeals from County Courts; there are appeals from official referees; and there are other appeals. Those are the more important matters. Then there are, in addition, filing appeals to the Court of Appeal, which is done in the Crown Office. We deal there with appeals from the King's Bench Division, or from the County Court, under the Workmen's Compensation Act, which go straight to the Court of Appeal, as opposed to the King's Bench. That is dealing with the filing and entering of appeals. Also in the Crown Office we draw up the orders in all those matters dismissing or affirming the appeal, and, of course, in some of the cases the order may be a simple matter; but, certainly, in a very great many of the Crown Office matters as dealt with now they are not simple matters. They are drawn up in the Crown Office. Then we also issue the rules nisi, which are obtained on application to a Divisional Court, and we draw up the order of the rule nisi, which is an order calling upon a person to show cause why a particular thing should not be done. Then we issue the writs and issue the subpoenas. That is, or may be, a comparatively simple matter; but even issuing subpoenas is a matter that requires care, they are not absolutely issued as of course—

53,251. (*Mr. Coward.*) Are not they?—No.

53,252. Supposing it is a subpoena *ad test*?—The large majority are simple. We do not issue subpoenas in practice, for instance, for any matter in the Divisional Court; there must be as a rule a cause or matter to be heard.

53,253. Of course you would not. In the Divisional Court there would not be any matter in which a witness would appear?—There are not many of them, but as a matter of fact, only two days ago, I had brought to me personally from the office an application to issue a subpoena for a matter which is now proceeding in the Divisional Court which I refused, because I did not think it a proper matter in which a subpoena should be issued.

53,254. But it never would be issued. How could it be? They would not hear witnesses?—I should not like to go quite so far as that, because the Lord Chief Justice in this particular case said he thought it had better be issued.

53,255. Because he wanted the man there, I suppose?—Yes.

53,256. It would be very, very exceptional?—I quite agree, it is very exceptional.

53,257. I am bound to say I never heard of such a thing in my life?—No, and in the three years I have been there I think I have had half a dozen applications brought to me to issue a subpoena in the Divisional Court and I have refused—I will not bind myself to my figures—certainly four of them. There are such applications made which have to be dealt with. I can tell you the

kind of case. If there is an old plan or old map which has to be referred to, one would issue a subpoena for that, if there is no copy. I hope I make it clear that it is that kind of case. In other matters I should exercise my discretion—it does not often arise—as to whether I thought there was a probable reason to think that the presence of a witness at the Divisional Court might save time and save money.

53,258. (*Chairman.*) Will you continue stating what the Crown Office does?—In addition to that we have to keep the lists for all the matters dealt with in the Crown Office. That includes the Crown paper, the Civil paper, the special paper, and the motions for judgment.

53,259. (*Mr. Coward.*) These are lists of cases standing for hearing?—These are the lists of cases standing for hearing and the daily lists. It requires some consideration to make up the daily cause list, and is not a matter always quite as simple as people might think when you have to judge the length of a case. Of course, it is done mostly in the office, but I personally take a considerable part in doing it and find it considerably difficult. One naturally does not want to bring people there unnecessarily, and on the other hand one does not want that the Court should run short of work. Sometimes it is very difficult to judge the length of a case; in fact, often one absolutely has not the materials to do it. In addition we also from the Crown Office have to provide the officers to take the courts, really in the sense of associates in the case of the Crown paper, the Civil paper, the special paper, and the motions for judgment. Of course, it is very seldom that all four are going on at the same time. Perhaps you do not wish me to go into exhaustive detail further.

53,260. (*Chairman.*) For our purposes the general sketch you have given is sufficiently detailed. You also have the supervision of the Associates Department?—I have. That department is practically under the control of Master Lawford, who is an assistant master, and it is one of the matters I hope I may have an opportunity of saying something about later—both upon that subject and the Criminal Appeal work, if you wish to hear me upon those points.

53,261. What is the work of the associates?—Upon that matter my duty is general superintendence. In practice I have very little to do with the associates, and if you wish to hear evidence upon that, I do hope that you will hear either Master Lawford or one of the clerks, Mr. Kenyon or Mr. Thomas, if you wish to go into any detail. I dare say I can give it to you generally, but if there is any question of detail at all I hope you will hear some other man who is, I will admit, more qualified than myself to speak as to details with regard to associates. They have the keeping of the daily cause lists and the warned lists published; they have to summon the juries, and one of them has to sit in court with every King's Bench judge, who is taking King's Bench work except the Bankruptcy. Then the jurors summoned have to be dealt with as to excuses and questions as to when they are next wanted, and that kind of detail, which has to be dealt with in every court—special jury or common jury—and though I do not myself ever have now to deal with them, some years ago for a short time, long before any appointment I have now got, I did, and I do not think it is easy work dealing with jurors who probably are not very pleased at being where they are. I speak from slight experience on that point about 15 years ago. The associate who is sitting in court has to keep the minutes of every order; the orders and certificates of the judgments have to be drawn up; and the associate ought to be ready in court always to answer any questions on practice which the judge may ask him. Then he has to see that the documents are properly stamped. In the office itself there are a very large number of questions that people come in to ask with reference to their cases when setting them down for trial and when they are likely to come on; and cases have to be entered for trial and the lists made up and published. There is also the troublesome matter that cases are postponed suddenly, which has to be provided for. By no means do I say that I have

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given a full and complete description of the work, but I have endeavoured to give you the general outline for which you ask.

53,262. The duties of the associates would appear from your description to be duties requiring common sense, tact, temper, and judgment, rather than legal knowledge of technicalities?—I think they require extreme tact, and I accept your words entirely. I should myself say that they require very great tact and general ability to deal with the work and a certain knowledge of practice, but not a legal knowledge.

53,263. The work in the Crown Office is, I suppose, very technical?—It is very technical and requires a very good knowledge by the clerks as to the particular procedure. There are such a number of matters where different considerations come in. For instance, the length of time to appeal and whether the right step is being taken. They require extreme technical knowledge, and I think the Crown Office clerks require tact and common sense.

53,264. (*Mr. Coward.*) The Crown Office work is quite technical, but there is such a thing as a book upon the subject?—Yes, there is a book upon it, and I think a most admirable book.

53,265. With a certain amount of trouble any one of us could ascertain what had to be done in a particular case, could not we?—I do not know. All I can say is, that there are an enormous number of people now who do not understand it. I spent a considerable time some years ago in studying the book you have referred to, and I have not the slightest doubt with great advantage I could continue to study that book.

53,266. (*Chairman.*) Your staff in the Crown Office consists of how many clerks?—In the Crown Office we have seven clerks.

53,267. How are they distributed between the different classes?—We have at present got three first class clerks, two second class clerks, and two third class clerks.

53,268. What are the corresponding numbers in the Associates Department?—At present I have not mentioned anything about the war vacancies or sickness. As a matter of fact we have clerks ill now, and some are away. You are speaking of the ordinary full staff, I presume? In the Associates Department there are 12 clerks, of whom one is a first class clerk, and I think there are five second class clerks and six third class clerks.

53,269. Do you find that the present system of appointment has satisfactory results as regards your staff?—Personally, I think it has. I think the class of man—and I am speaking of my three offices—is admirable. I have the very highest opinion of the men in all my three departments.

53,270. Have they usually been appointed without previous legal experience?—Speaking for those appointed in my time, I do not think any have had any previous legal experience. There is one man in the Criminal Appeal Office who has been called to the Bar, but he has never practised; he was appointed to the Central Office long before my time.

53,271. Do you find that without previous legal experience they can learn their work satisfactorily in the office?—I find so, certainly. I think one man has been appointed in my time to the Crown Office absolutely from the outside, and one, I think, in the Associates Department from outside, but others have been transferred from other departments of the Central Office.

53,272. That is to say, they have had experience in the Central Office but not as solicitors' clerks or other outside legal experience?—No, as far as I know, they have not had any legal experience as solicitors' clerks.

53,273. Do you think it preferable to appoint men in that way without experience in a solicitor's office; in fact to catch men of good education and intelligence straight from school or university rather than to get men who have been employed in solicitors' offices before they come in?—Yes, I think it is. I personally am so impressed with the class of man that we have got now, that I should not like to express any opinion, although I speak with hesitation, that we could get a better class of man. Of course occasionally there are individual cases, but you are speaking of the class.

53,274. Yes. In the two branches under your supervision do you make any clear distinction between the work of the different classes? Is there a clear distinction, for instance, between the work of the third class and the work of the second class?—I think so in the Associates Department. I speak with very great hesitation on that point. In practice a second class clerk is always expected to be present in the office itself as apart from the court work, who, of course, has the responsibility. I do not know that any real distinction is made in the Crown Office, but certainly the second class men there do in fact have much more responsibility put upon them. I would not like to say it is because they are second class; the third class men in the Crown Office are very much younger, and naturally one would be careful to see that they were not given so much opportunity of control in the office when there was not somebody else there, such as a second class man.

53,275. It has been suggested to us in connection with some of the legal offices that a part of the work is of a very mechanical and routine description—filing papers and so forth—and that if the junior clerks are doing work of that kind it is a bad preparation for advancement to the more important work which is done by the senior clerks. Therefore it has been suggested that it would be desirable to have two entirely separate recruitments—recruitment for the third class without any prospect of rising to the higher classes, and recruitment for the second class separately and at a somewhat higher age, with the prospect of advancing to the first class. Would that system be applicable in the departments of which you have control?—I do not think it would be applicable in either of the departments that we have spoken of. At present you have not asked me anything about the Criminal Appeal Office. I do not think any of the work that any of the clerks do in either the Crown Office or the Associates Department could in any sense be properly described as mechanical. I had not considered that question, but it certainly is my opinion that there is no mechanical work strictly so called that any of those men do in the Crown Office or the Associates Department.

53,276. I suppose that may arise partly from the fact that the volume of the work as measured by the number of cases passing through the office is not so large as in the other departments of the Central Office, and therefore the mechanical work of filing documents and keeping records, and so forth, is small in proportion to the total amount of work?—It is all done as part of the same thing. We have not in the Crown Office a department for filing our papers. It would have to be done there and then by the same man. It is all really one transaction. The man who takes the thing in probably has to file it, though he may not eventually enter up some particular book. The whole thing is done in the Crown Office.

53,277. I gather that you would not be in favour of any such separation as has been suggested in the case of some other departments?—No, I should not.

53,278. Is the staff of your department of the Central Office interchangeable with the staff of the other departments?—Yes, it is interchangeable.

53,279. How far is the interchangeability carried out in practice?—I think that is one of the very difficult questions of which I should like to see very much some solution. The interchange is really carried out by the Committee of Control. It takes a very considerable time to learn the business properly in the Crown Office and in the Associates Department, and it is very difficult to interchange the two, and to send one man who has learnt his work fairly well to another department altogether; in fact I, myself, with Master Bonner, spent some time, some months ago now, trying to devise a scheme for the senior master as to how it should be done. I feel that there are very great difficulties in doing it. I think it is absolutely essential, while the promotion is to be from one office to another, that there should be some such scheme if the Crown Office and the Associates Department are to remain part of the Central Office. I personally feel the difficulty, though I do feel that it is essential. If we have this interchange we are continually having in offices, where knowledge of the office is essential, new men who

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do not know the work, and who are learning their work.

53,280. That is to say, for a certain period after each interchange, there would be in the two departments concerned a man who is learning the work of the department to which he has been moved?—Yes, and learning work that I feel really does take a long time to learn properly. I hope to live to see the Crown practice very considerably simplified myself—I do not know whether that is not hoping for too long a life.

53,281. But as it is at present, it takes some time to learn?—I should not like to leave a man in the Crown Office responsible for the work unless he had been several years in it. Then, of course, the difficulty arises when the question comes of promotion to the first class clerkship in, say, the Associates Department or the Crown Office. A man who had merely spent two or three years in the office some seven or eight years before that would be absolutely no good whatsoever as head clerk in the Crown Office; he would not know the business, even if he had been in it two or three years, sufficiently to be any practical good as head clerk.

53,282. Would not he very soon pick it up again?—I doubt if he would. I think it would be a very difficult position for that man, especially if the men immediately below him were men who had been in the Crown Office for a number of years and actually knew it.

53,283. Would you say that a man who has been moved about, and worked in several different departments, or in all the different departments of the Central Office, would in the end be a better man than a man who had worked himself up in one department alone?—For the Crown Office and the Associates I do not think he would.

53,284. Not for that particular work?—For that particular work I do not think he would.

53,285. Would not it give him a wider outlook altogether?—It might give him a wider outlook on facts which would have no bearing upon the office that he would hold as head of one of those offices.

53,286. You do not think that for that particular purpose he would be a better man?—I like people to have wide outlooks, but it does not seem to me that there would be, for these particular offices, any advantage.

53,287. What is your conclusion on that point—that the Associates Department and the Crown Office Department should not form part of the Central Office?—That is my opinion. I think it would be much better with the Crown Office and the Associates Department forming one office in itself, responsible through its particular master to the Lord Chief Justice (as we deal practically only with King's Bench Division matters), who is head of that division. I do feel, of course, that it may well be that the consideration of compensation would come in, supposing that view of mine were to meet with anybody's favour. There might be compensation to clerks in the Central Office. I do not want to say a word or do anything to reduce their prospects or their hopes. I do not think any of the clerks are by any means overpaid, but my own view is, that if it could be arranged without any of the clerks suffering any loss, either immediate or prospective, that, as a businesslike working, it would be far more workable that it should form one separate office.

53,288. Would you retain the Crown Office and the Associates Department together?—I would, because I think those two could work together extremely well, and I feel that they ought to be under the one master. I hope that in any expression on this point it will not be thought that I am suggesting in any way any sort of complaint about the Committee of Control, or anything of that sort. Nothing is further from my mind, but I feel myself that there are such difficulties in dealing with the offices as they are now arranged that I think the Committee of Control have a very difficult task.

53,289. Is it due to the difficulties of promotion, arising from the causes you have mentioned, that there are an exceptional number of first class clerks in the Crown Office?—I think it is. When I came into the office Mr. Short and Mr. Image were both first class clerks—on what considerations I do not know. Mr. Gipps, the junior first class clerk, was appointed a few months after I was appointed, and the Committee of

Control asked me my opinion, and I gave it. I had had some opportunity then of seeing him, and I made inquiries, and I thought it would be a great injustice if Mr. Gipps was passed over; but, apparently, there was difficulty in moving him to another office. I think it may be due to the difficulties I have mentioned.

53,290. What is the arrangement in your office as regards vacations?—In the Crown Office there are at least two clerks during all the vacations, and at the beginning of the Long Vacation, and certainly at the end of the Long Vacation, there are always considerably more, as there are the lists and other matters to be dealt with. In the Associates Department at least two clerks are always present during vacations. The Christmas vacation, I am told by Master Lawford, is an extremely busy vacation, because all the cases have to be re-numbered, and at the end of the year a considerable amount of work has to be done.

53,291. Can you say what the average length of vacation for an individual clerk actually is?—I made that inquiry in the Associates Department, and, I think, the average length is about seven weeks. It is six weeks in the Crown Office.

53,292. What is your opinion on the question of a fixed age limit for retirement?—I myself am in favour of an age limit for retirement of the clerks, provided, of course, that at the time a man is appointed he knows there is that fixed age limit; or, if any other steps are taken, that there is compensation, because if a man has served many years it would be hard on him if he were forced to retire unexpectedly. Generally speaking, I am in favour of there being a fixed age limit. A man has performed, presumably, for many years the same routine of business.

53,293. Would you suggest the usual Civil Service limit, which is that a man may retire on a pension at 60, and must retire at 65 with possible exceptions?—Yes. Dealing with the "may retire," I do not know quite about the clerks in the law courts now. I thought that they might. But for compulsory retirement I should be inclined to say 65 years. Not that by that I mean to say for a moment that I do not think there are men above 65 who are extremely competent and extraordinarily able, but, dealing with it as a general proposition, I am in favour of 65.

53,294. What do you say on the same question with regard to the masters themselves?—I am only one master and there are many. I am inclined to think that an age limit is advisable; whether necessarily the same age limit, as low as 65, I am inclined to doubt. The average master is appointed very much later in life than the clerks, and one of my reasons for favouring retirement at 65 is that the man has served so many years in the one office, which would not apply to the master until he got to be a very old man.

53,295. Several witnesses who have expressed themselves in favour of an age limit for retirement in the case of masters have suggested that 70 would be a proper age in their case?—Yes, expressing merely my personal opinion, I do not disagree with that at all.

53,296. Will you tell us now about the Court of Criminal Appeal and your duties in relation to that court?—Under the Act and the rules I have a number of duties cast upon me, but you want the actual thing rather than the technical thing?

53,297. Yes?—First of all the notice of appeal is received in the registrar's office, and he is responsible for getting all the papers and everything proper ready to lay the application before either a single judge or, as the case may be, before the full Court. The first few steps are probably matters I never hear of now and have not to deal with. When the necessary papers have been obtained, that is to say, the indictment, depositions, transcript, and such like papers, it is the duty of the registrar or the assistant registrar to read them all and to make a note of points in the form of an informal report, so that the judge's time, or the time of the court, need not be unnecessarily wasted in reading through papers that are quite unnecessary. I think I may say I have had some experience of this court, at any rate, and the amount of immaterial and irrelevant matter sent in is enormous. The making of that note or report by

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[Continued.]

the registrar, or by the assistant registrar, is a duty that takes a very considerable time. Of course, in some long cases it often takes a day. The shortest case that I know of takes almost an hour or so. I happened this morning to have, in my opinion, an extraordinarily frivolous appeal, but there were a considerable number of papers to read through, and I formed my opinion early; but I wished to be certain that there was nothing important. In this case, as is usual, I should think, in 90 per cent. of the cases we get, the appellant was not represented by any solicitor or counsel, and I certainly regard it as my duty to read everything to see if there is any possible point that ought reasonably to be brought to the notice of the judge—never mind whether the man raises it or not. When that is done, probably in most of the cases I have to decide—when I say I, I mean the assistant registrar assists, but I have myself, in fact, to decide—whether an appeal is an appeal which ought to go at once to the full Court, or as an application. If it has to go to the full Court, the public are put to a certain amount of expense at once, because the prosecution are represented. If the case goes to a single judge it is refused or granted, and we have to notify the appellants—that is work done in the office, but it requires careful attention—of the result. He is entitled then to appeal to the full Court, and a certain number of them do appeal. Over 30 per cent. of the appellants never come into the court at all, that is to say, as far as the public know; they know nothing about it, because they abandon their appeals after the application has been refused by the judge. I am responsible for seeing that the proper people are notified. When the case comes into court, I have to see that the papers that are properly necessary are ready. Of course, I do exercise a certain amount of supervision there. If it is a case I have not personally read for the note, I always see the case and go through it—and I am going through them now for the next court day. When that is complete we have to notify, I think, five different people, on an official notification, of the result of the appeals. I am just roughly stating duties to give the Commission an idea of the work. In addition to that, a very large number of these cases really call for an inquiry, not only in the interest of the appellant, but in the interest of the public generally, because if an appellant makes some statement which, on quite simple inquiry from me, turns out to be absolutely unfounded, he would not be given leave to appeal; but otherwise, if he got leave, the country would be put to very considerable expense, because the country has to pay for the prosecution being present, and the expense is certainly considerable. There are few cases where there are not some inquiries to be made—letters written and inquiries of that kind. I, myself, find that my work as registrar is very considerable. I have an assistant registrar, and I do not think one could have a better assistant registrar, but I, in fact, deal, in the manner I have mentioned about making the report, with well over 20 per cent. of the cases in the first place. The work of dealing with those necessitates my dealing with them on at least two Saturdays out of three in the sittings, when a messenger takes papers to my house, which I deal with in a considerable part of the intervening space between Saturday and Monday. To do this with any sort of satisfaction only to myself, I have to be at my office before 10 o'clock in the morning, meeting the principal clerk, who brings me, on my directions, any letter that raises any matter in the least out of the common or any appeal of any peculiar importance or that may be of importance. I always see him at 10 o'clock, or a few minutes before, in my room at the Crown Office.

53,298. Am I right in gathering that your duties as registrar of the Court of Criminal Appeal are the most onerous and heavy of the duties of the various offices you hold?—Yes, I should say they are. The duties of the registrar are absolutely cast upon me by statute. In the statute and the rules it is upon me that the duty is cast, and, speaking quite personally, I feel that it is a real responsibility.

53,299. Do you think it is the right arrangement to combine the registrarship with the mastership of the Crown Office?—No, I do not.

53,300. You think the registrarship ought to be a separate office?—I think it ought to be a separate office, and that the registrar ought to be able to devote the whole of his time to the Court of Criminal Appeal. If there is not work sufficient for two, there is, without any qualification, too much work for one man. I certainly do not want to overstate it, but I do not think there is sufficient work in normal times for a registrar and an assistant registrar. I think the registrar ought to have the first opportunity of devoting his whole time to the work, and should have an assistant, who, I think, quite conceivably and quite easily might be able to assist either the other masters or the master of the Crown Office, if necessary.

53,301. Your staff in the Criminal Appeal Office is not large?—No, my staff in the Criminal Appeal Office, if I may describe it in that way, is 6 minus 1. The staff has been reduced, and was reduced in 1912 when a vacancy arose. I said that in my opinion it was not necessary to fill it; though the work had not decreased, it had been more organised. Mr. Short, who is, or was, the senior second class clerk in the Criminal Appeal Office, was lent to the Poor Persons Department—the department formed for giving legal aid in Civil matters to poor persons. Mr. Short was lent with my consent to that department temporarily in April last for some of his time, and, in July last, for all of his time, but temporarily. I regret to say that that temporary work is still running, and I have found very considerable inconvenience in consequence of it, but of course I have had to put extra responsibilities upon the next clerk. I had in that office arranged the work distinctly upon the ground of the second class and the third class in this sense, that I divided all the cases into two divisions of the alphabet, and I made one second class clerk responsible for one division with a third class clerk to help him in both cases. Since the temporary loan of Mr. Short, I have had to put the actual responsibility on a third class clerk.

53,302. That office is not part of the Central Office?—No, it is not part of it at all.

53,303. Do your general remarks about the quality of the clerks, and their method of appointment and so forth, apply to the staff in the Criminal Appeal Office?—My remarks as to the quality of the men certainly apply to all the offices I am concerned with, and about which I can speak with personal knowledge of the men. I think as a class in all three offices it would be impossible to get better. You asked me about the registrarship being a separate appointment. It seems to me that that could be carried out at present without any increase of cost and that it would be far more convenient. It is far more convenient in the Registrars' Office, but in the Crown Office and the Associates Department it would be far more convenient that there should be one master to actually have the responsibility for those departments. In my opinion the work that Master Lawford has now, of arranging the lists and the sittings of the judges, ought to be work actually done by the master who occupied that position, and who would be the actual head of the Crown Office and the Associates Department. I feel convinced that it is a far more businesslike arrangement, because at present Master Lawford and myself have continually to be seeing each other to know what the arrangements are. For Divisional Courts we supply men to take the court from the Crown Office; we are continually running about seeing each other. If one man did it all that would, in my opinion, be a very much better arrangement. The work that Master Lawford does now would, I think, with the ordinary Civil work of the master of the Crown Office that I do now, make a full amount of work for one master. At present I do not suggest that the work that I do as master in the Crown Office, purely and simply, is sufficient work for one master; but I think the work that Master Lawford does, as my assistant, would make that quite possible. I have often thought, myself, with the offices that I hold, that, if I had not both an assistant master in Master Lawford and an assistant registrar in Mr. Lawrance, who are absolutely willing—and two more able and better men to help me I cannot imagine—if there was any difficulty between me and either of those assistants I think it

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[Continued.]

would be an almost hopeless position. I think it is a much more businesslike arrangement myself, and if it should ever come to any question that I had to choose between the offices I am bound to say, whichever I choose, I should be very very sorry to leave the other, but I think I ought to suggest it to the Commission.

53,304. The net result of your suggestion, if I understand it rightly, would be, that the number of officers would remain the same, but that an assistant mastership would be converted into a mastership?—Yes, that would be so. One assistant master would be converted into a mastership.

53,305. And that new mastership, which would take the place of the assistant mastership, would combine the present duties of the assistant master and of the Crown Office that you discharge?—That is so, and I believe myself, when you get the actual head of an office like the Criminal Appeal Office or any office like that, the probabilities are that the result is economy rather than otherwise.

53,306. What is the arrangement as regards your typewriting and copying at present?—In the Crown Office the question does not arise. There is a considerable amount to be done in the Criminal Appeal Office, and that is a matter I hope one day to see improved. We have a very considerable amount of copying to be done. Every notice of appeal has to be copied.

53,307. Is that done at present in the Central Scrivenery Department?—It is. It, of course, means that I have to send that notice of appeal, which is an original document, and, in fact, when I first send it, the only document in existence, to be copied in another department. Most excellently they do it in the Scrivenery Department, but the anxiety I feel about it is that a small boy has to take that original document away. I have a system which I was, I think, responsible for suggesting, by which we make a little note in a proper book of the documents sent, and a counterfoil is sent down with the documents, so that if it should get lost there we can trace where it is, and it is sent in a locked bag, so that if the small boy wants to turn head over heels on his way the document has a certain amount of chance of arriving.

53,308. Have you any shorthand writers at your disposal?—No; every letter that we write has to be written. If I write it myself I write out a rough draft of the letter, and either have that copied in the Criminal Appeal Office, or, if necessary, send it to be typed, if I want a typewritten copy in the Scrivenery Department.

53,309. Would a shorthand typist be of great use to you for the notes that you speak of, which you prepare for the duties of the Court of Criminal Appeal?—Immense use. In practice, if that goes to a single judge only, he has my own manuscript note.

53,310. Would it be a convenience to you in preparing those notes if you could dictate them?—Certainly it would. It takes a long time to do it now.

53,311. Would not that be a great saving of time?—A great saving of time. Then those notes are always copied if the case goes to the full Court, and there is a typewritten copy for each judge, and if he wishes to refer to it at all it is there.

53,312. If you had a shorthand typist to whom to dictate those notes, half a dozen copies could be struck off at the same time?—It would be an immense saving. It would not save me much time personally at present, because I am afraid a very considerable amount of my work as registrar I do at my house. The Crown Office work is a great deal of my work, and one is so continually interrupted, that when I am doing a long case, I often find I have had to take it away and do it at home. Even then, if I had a shorthand typist, I should have to dictate to him—and it would have to be "him" in the

Criminal Appeal Office—some time on Monday morning. Copies of the documents in every case have to be made for the judges.

53,313. (*Sir John Kempe*.) You said that the work done in the Crown office was in your opinion very important for two reasons, the variety of the work and the extreme technicality of a great part of it. Then you went on to say that you thought that the technicality of the Crown Office practice might, with advantage, be very considerably reduced. How far does that technicality depend upon your own practice in the office?—It does not depend upon me at all.

53,314. What is there that is technical?—It would have to be reduced by new Crown Office Rules.

53,315. It depends upon the rules?—It depends upon the rules.

53,316. Are those rules important? Why have they grown up? I suppose there is some necessity for them?—I speak with hesitation, because it was long before my time, but originally you had to get the practice from an enormous number of statutes. I think it was in 1886 when the Crown Office Rules were drawn up, and those Crown Office Rules were the summary of not all the statutes, but of most of the statutes affecting the Crown practice. But they did not amend it. I am speaking of the time when I was only just called to the Bar and had nothing whatever to do with this. Those rules are technical, and the whole practice is. You cannot always go to the rules, and you sometimes have to go outside the rules altogether—to the original statutes. Those rules were redrawn in 1906, and our present rules are the Crown Office Rules of 1906, and they are technical, and the practice generally is a technical practice.

53,317. In fact, you could not alter it without altering the law?—It would be altering the law. I think myself it could be altered to a very considerable extent by altering the rules. I have not considered how far it could be done by rules, and how far statute would be necessary. But I am quite sure that it could be simplified. I think I remember reading some time ago that a Royal Commission in a Report of, I think, 1874 or 1879, expressed the pious hope that the Crown practice then would be considerably simplified. I think it is very much the same now. I think the tendency of all courts now is that there should be less technicality than in days heretofore.

53,318. There would be no possibility of bringing your practice nearer to the other courts as you say you have very little to do with the other courts. You say the office work is quite distinct from the work in other departments, and the work does not bring you in connection with the other departments. You could not get rid of your technicality by bringing yourself nearer the other departments?—We have to do with all the courts, but I do not think the abolition of technicality would bring us nearer the other departments, except in this sense, that, of course, if the practice in the Crown Office was perfectly simple and was little more than routine work, then I do think that one of my difficulties that I have referred to as to the interchangeability of the clerks would be either abolished or modified.

53,319. Still, I gather from you that it is not within practical politics to suppose you ever could bring them together because you cannot get rid of the Crown Office practice and technicalities?—Not while the technicality of the procedure exists.

53,320. And that you cannot get rid of?—That I certainly cannot get rid of. It would have to be done by, at any rate, the judges or statute—I do not know which.

53,321. You might as well, I suppose, alter the technicalities of Chancery—it is the same sort of thing?—I should think so, but I would rather not express any opinion about Chancery practice.

ONE HUNDRED AND TWENTY-EIGHTH DAY.

Thursday, 22nd April 1915.

PRESENT :

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. CECIL COWARD.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Mr. E. W. H. MILLAR (*Secretary*).

Mr. ARTHUR LABRON LOWE (Registrar of the Birmingham County Court), called and examined.

53,322. (*Chairman*.) You are registrar of the Birmingham County Court?—I am.

53,323. And you are also district registrar of the Birmingham District Registry of the High Court?—Yes, my colleague and I. There are two registrars of the County Court, and we are both district registrars of the High Court.

53,324. You are also President of the Association County Court Registrars?—I am.

53,325. Does that association comprise the whole of the registrars?—No; I reckon that there are 500 registrars, and 378 of them are members of the association.

53,326. How long have you held the post of registrar of the County Court?—I was appointed on the 9th January 1905.

53,327. What had been your experience before that?—I was a solicitor practising at Birmingham. I was a partner in one of the large firms in Birmingham.

53,328. (*Mr. Coward*.) What firm?—Messrs. Johnson, Barelay, Johnson, and Lowe it was in those days.

53,329. (*Chairman*.) We have already had from a previous witness a statement which, I think, is sufficient for our purpose, as to the nature of the County Court jurisdiction. I will not ask you, therefore, to deal with those points which you have set out in a convenient way in the first pages of your précis, but I will ask you to begin by telling us about the duties of the registrar. Is it the case that, taking the work numerically by the number of matters dealt with, a very large proportion of the work of the Court is done by the registrar?—Yes, there is no doubt about that.

53,330. What would be the percentages dealt with by the judge and the registrar respectively?—I have calculated it from the Government returns, and I find 1 per cent. of the cases are dealt with by the judge; 26·3 are disposed of by the registrar; 36·3 are undefended defaults and judgments on confession; and 36·4 are cases struck out or otherwise disposed of and do not come before the Court.

53,331. I suppose those percentages could hardly be taken as accurately representing the amount of work which is disposed of by you and the judge as judged by its importance?—No, I am not suggesting that for a moment.

53,332. The cases going to the judge would be far more important?—Those percentages are simply numerical.

53,333. What are the duties of the registrar?—The main duties of a registrar may be put under two headings—judicial and administrative.

53,334. Dealing first with the judicial duties, what are they?—They are in court and in chambers. In court we have to dispose of a certain number of cases every day. In normal times in Birmingham we deal with 60 default summonses and 300 ordinary summonses a day. We put down 100 for each half-hour. We begin at 10 o'clock and it takes till half-past 10 to deal with the default summonses. Then we deal with ordinary summonses, 100 each half-hour, which takes till 12.

53,335. I am struck with the rapidity with which you dispose of these summonses—100 in half an hour?—I thought you would be. Sometimes we do not dispose of more than 50.

53,336. (*Mr. Coward*.) The usher calls out the name of the case, the defendant does not appear, and you

say "Judgment for the plaintiff," and that settles it?—Yes, the plaintiff or his representative proves the debt, and we say the amount per month the defendant has to pay.

53,337. (*Chairman*.) You are speaking not of default summonses?—Ordinary summonses. A man may enter 100 cases in a batch, so there is no time lost in going backwards and forwards into the witness-box; he is in the box for the whole batch. The usher calls out the case, the defendant does not appear, or he may have written and sent a consent. If he has not sent a consent, one has to make an order of so much a month. The plaintiff may ask for, say, 5s. a month, and you have to look at the papers to see what the man is; whether he is a labourer, say, and if he is, you say, "5s. is too much—3s.," and that is, from practice, done very quickly.

53,338. Does the defendant appear in a large proportion of those cases?—Not in a large proportion. In money-lending cases the defendants very often appear. In the ordinary grocery and drapery cases the plaintiff now very often gets the consent of the defendants, who sign a form of consent: "I admit I owe the plaintiff so much, and I offer to pay so much a month." Of course those cases are gone through very rapidly, because there is nothing that one has to exercise one's brains upon at all.

53,339. Besides that you have the Bankruptcy work?—That comes in the afternoon, and there is chamber work. I do not know whether, if I give you an account of what we do in a day, that would be convenient to you. The registrar who is sitting in court in the way I have described, disposes of those cases up till 12 o'clock, and the defended work takes him generally till half-past 1 or 2. The other registrar goes into the court with the judge at half-past 10 when the judge sits.

53,340. Does the judge sit every day at Birmingham?—Yes, the same time as the registrar does, but not on a Saturday. He is with the judge until 12 o'clock, when the judge gets on to defended work. We are always with the judge when dealing with applications. The judge does not want a registrar when engaged on defended work, and the registrar goes into chambers and deals with *ex-parte* applications at 12 o'clock until half-past 12 or a quarter to 1, depending on the number. Probably after that there are some appointments. In the afternoon the registrar who was with the judge may have a Bankruptcy court for hearing public examinations, which begins at half-past 2, and that may go on till 4 or 5. The Bankruptcy work having fallen off, we have not had so many lately. The other registrar at a quarter-past 2 deals with High Court summonses and other matters dealt with on appointment, such as taxations, and similar matters.

53,341. There is a clear distinction, I suppose, between his sittings as registrar of the High Court and as registrar of the County Court?—As registrar of the High Court we sit in the same room as chambers. We do not sit in court for that at all.

53,342. It is in the same room, but a different list is called on?—In the same room at a different time; the High Court work is always taken at a quarter-past 2.

53,343. What do you say as regards the administrative work?—I have set out in my précis the different things we do in chambers.

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[Continued.]

53,344. I think we need not go into the details?—Ours is a large court and we have to divide it up into departments; we divide it into the staff office, the plaint office, the money office, the district registry and bankruptcy office, and the copying office. I have set out the main work that is done in each of those departments.

53,345. I understand that the staff office deals with general clerical work?—Yes, general correspondence. We have about 300 letters a day to deal with.

53,346. The plaint office deals with the steps in an action prior to hearing?—Yes.

53,347. The money office is a name which speaks for itself. It deals with all the book-keeping and the receipt and payment of money?—Yes. We have to have accounts in most of those cases, and all money in the County Court is, theoretically, paid into court and paid out.

53,348. The monetary transactions are extremely numerous, but simple in character?—Yes. An order is made, say, in an ordinary debt-collecting case, to pay 5s. a month; the defendant pays this money in and it has to be accounted for by the registrar, and is paid out to the plaintiff on production of what we call the plaint note, which is the plaintiff's title to any money that may be in court.

53,349. Then with regard to the district registry and bankruptcy office, is that a department dealing partly with the work appertaining to the district registry of the High Court, and partly with the work of the County Court in matters of bankruptcy?—Yes, and in the case of administration orders and workmen's compensation cases, we find it convenient to do it in that way. Although we are district registrars of the High Court, we manage the district registry as part of the whole County Court system, and the clerks are all part of the County Court staff.

53,350. That is to say you have not separate clerks appointed exclusively for the district registry work, but that work is transacted by clerks who also do County Court work, and are part of the same staff as the clerks engaged solely on County Court work?—Yes; I want to make that clear. The head clerk in the district registry only deals with High Court work, but tomorrow, if it fell off, he might be brought in to do County Court work.

53,351. Is there free transfer of clerks between the different departments of the office?—Yes; we begin with boys coming in after they leave school. They go first of all into the staff office, under the care of the chief clerk, and get into the ordinary business ways of the office, and from there they go to one of the other departments, and are moved up from one department where they may be juniors, to another department where there may be a vacancy, our object being that they shall see the work of all the different departments as they progress up the scale.

53,352. Do you find that system advantageous?—We find it most advantageous.

53,353. Do you find that there is any difficulty caused by the fact that a clerk, when moved into one of these departments for the first time, does not know the work of that department, and has to learn it?—Not at all.

53,354. It does not take him long to learn it?—No.

53,355. Is that the case with the district registry work as well as the County Court work?—When a man is new he has to learn the work like anything else, but he does not find any difficulty. He would not be put straight away to the head of the district registry department or of one of the County Court departments; he would have been junior in the district registry before he got to that.

53,356. But you find no difficulty in teaching him his work as junior in each department in turn?—No; just as in a small court, I presume, they would not have these different departments, and having only a few clerks they would have to do the whole work of the office.

53,357. What is the arrangement as regards copying work?—There we employ girls. We now have six girls. They live in a room which the Treasury built at

the top of the court. They have a big room to themselves, and they do practically all the copying work.

53,358. Do you find that they do that work satisfactorily?—Yes, quite.

53,359. Do the ushers do a certain amount of the filing work?—They do now. At one time they did not, but now we have commissionaires, and we find they are very capable men, and when not engaged in court—and for a good deal of their time they are not—they do ordinary clerical work.

53,360. What kind of work?—Copying work. They help to copy the summonses, and they look after the papers. We have an enormous number of papers. Every paper has to be filed so that it can be got at in the least possible time in its own particular matter. When we are dealing with 50,000 cases in a year it means a considerable amount of work to keep the papers in order so that they can be turned up. The judge may ask for a paper at any time.

53,361. Do you find that a satisfactory arrangement?—Yes, they do that work very well indeed. We have had very much less trouble with the papers since we put them on to do the work.

53,362. Turning to the question of remuneration, you have given in your précis a statement of the remuneration of the registrars, and the allowance for clerks and ushers at Birmingham, for the last three years. I propose to put that on the notes as it stands.* I observe from that that you do not expend the whole of the allowance for clerks and ushers?—No, we do not. We are trustees, really, of the money for the Treasury, and if we can do it for a bit less we do it. Mr. Bridgeman quite understands and trusts us to do it, and we do it to the best of our ability.

53,363. That is an advantage, because if you keep a little in hand it enables you to give increments to clerks where you think it is required?—Yes, and enables us to reward any special service. I notice that in 1914 we had 200*l.* in hand; in 1913 we had 38*l.* in hand. Mr. Bridgeman never says to us: "I am going to reduce your clerk hire because you have not spent it all," or anything like that. He knows perfectly well that we do it as well as we can.

53,364. You also give a statement of the remuneration of the registrar at Rochester?—Yes; he kindly sent it to me, and I thought it might be useful to the Commission.

53,365. Is not the Rochester Court a court with over 6,000 plaintiffs?—It was over that number two years ago, but for the last two years it has been under 6,000 plaintiffs.

53,366. I see the registrar's salary amounted in 1912 to 876*l.*?—Yes.

* The following is the statement:—

REGISTRARS' REMUNERATION.

(Note.—The remuneration is fixed, and has been the same for each registrar since his appointment.)

	County Court.	High Court.	Total.
	£	£	£
Mr. Registrar Whitelock - -	750	650	1,400
Mr. Registrar Lowe - -	650	550	1,200

ALLOWANCE FOR CLERKS AND USHERS.

	1912.	1913.	1914.
	£	£	£
Clerk-hire - - - -	7,930	7,480	7,630
Shorthand writers - - -	50	50	50
District registry - - -	500	500	500
Ushers - - - -	518	518	518
Expended - - - -	8,998 8,443	8,548 8,510	8,698 8,494
Balance unexpended - -	555	38	204

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[Continued.]

53,367. Is that his net salary?—Yes, I imagine that would be his net salary. He would not have to pay any clerks out of that.

53,368. I thought the net salaries were limited to 700*l.* a year. Is not that the case?—Yes, it is limited to 700*l.* Then there are the Schedule B fees.

53,369. Does that include the Schedule B fees?—I suppose the explanation is that that includes the Schedule B fees.

53,370. You have also given us a statement of the rate of remuneration of the clerks in your office?—Yes.

53,371. I see your chief clerk receives 600*l.* a year as remuneration?—Yes.

53,372. There are seven officers receiving 300*l.* a year or over?—Yes.

53,373. And the remainder—the great majority—receive salaries of between 100*l.* and 200*l.* a year?—Yes.

53,374. While there are five, I think, who have salaries under 100*l.* a year?—Yes, they are comparatively young.

53,375. Those, I suppose, are young men just beginning their service?—Yes, boys, and those who are working up. All those I think you would find would be under 21. Boys come to us at 5*s.* a week; we raise them the first year 5*l.*, the second year 8*l.*; the third year 10*l.*, and the fourth year another 10*l.* If the boy stays on with us—he usually does—he is generally receiving about 25*s.* a week when he is 21. That is how it works out.

53,376. What are the salaries of the girls in the typewriting department?—It is not a typewriting department, but a copying department. Very few of them type, only two. It is nearly all hand work; they copy these summonses.

53,377. Is it not possible to do that by typewriting?—Very few of them do typewriting. They have to be duplicated, and it is mostly done by writing.

53,378. But duplication is surely much more easily done by typewriting than in handwriting?—The Treasury, I think, only allows us two typewriters. As a matter of fact all the summonses are copied by hand.

53,379. Would not it be economical and convenient that they should be typewritten?—I think we once applied to the Treasury for another typewriter, and they did not see their way to grant it.

53,380. In your opinion would it be advantageous to use typewriting to a greater extent?—No, I think it is done in the best way now. I do not think we could improve it.

53,381. Have you experimented at all with the rate of work in typewriting and handwriting?—No, not in copying the summonses.

53,382. We have had it in evidence that as regards copying a continuous document, the rate of typewriting is something like double that of handwriting. In the case of a discontinuous document no doubt the difference would not be so great; but would not it be worth while experimenting to see whether there is not a similar advantage in the case of your documents?—We might try to see if it is so. I will put it before my colleague. A summons is a discontinuous document. First of all, there is the name of the plaintiff, his address, and description; then the defendant's name, address, and description, and certain other particulars are filled in in a printed form.

53,383. (*Mr. Coward.*) It is filling up forms rather than copying?—Yes. It is not copying in the sense of it being continuous. It is filling in the name and address of the plaintiff and defendant. I expect time would be lost in adjusting the machine to get at the right lines, and that sort of thing.

53,384. (*Chairman.*) Possibly; but the document, you said, has to be produced in duplicate?—Yes, we have a carbon in between.

53,385. When it is done in handwriting you duplicate it by means of carbons?—Yes. The girls come to us at a salary of 10*s.* a week, which is double what the boys get. They advance for the first year by 2*s.* a week, and each subsequent year by 1*s.* a week, until they reach their maximum, for the ordinary girls, of 20*s.* a week. On page 24 of my précis you will see Miss Wilde gets 78*l.* a year as head of the department.

Miss Hamilton does some rather special work as well as the ordinary copying, and Miss Smith is a shorthand writer as well as a copyist, and does a good deal of the correspondence. We reckon that the ordinary maximum is 52*l.* a year.

53,386. Turning now to the question of appointment, what is the statutory qualification of a registrar?—Five years' standing as a solicitor of the Supreme Court.

53,387. By whom is the appointment made?—By the judge, with the consent of the Lord Chancellor.

53,388. Speaking generally, are registrars selected, as you yourself were, from among practising solicitors?—I believe so. I should think in the great majority of cases they are selected from solicitors practising locally.

53,389. In your opinion, is that the right source from which to select registrars?—Yes, I believe that is the proper way to do it.

53,390. The suggestion has been made that the appointment should be made not by the judge but by the Lord Chancellor, or other central authority. What is your opinion on that suggestion?—I can only say that I do not think it would be a good thing. I think the present practice has worked very well. I am bound to say that there is a general feeling in the country that if the appointments were placed with the Lord Chancellor the local candidates would stand little chance, and the appointments would be more likely to go to London men. After all, there is a very personal relationship between the judge and his registrar, a great deal more so than between the High Court judges and their masters; and I think it is very right that the judge should appoint somebody who is acceptable to him. I should like to say that Mr. Coley, who is a member of the Committee of the Law Society, writes to me that he thoroughly agrees with this paragraph in my précis: "So do all of us," he says. I believe the Council of the Law Society take the same view.

53,391. Your clerks and officers are appointed by yourself?—Yes.

53,392. Do you consider that any legal experience is desirable there?—I do not think so; certainly not when they come to us as boys. The experience they want is the experience they gain by passing up through the office. After all, in Birmingham we should very much resent any clerk deciding any legal point; he would be called over the coals very much if he did. Any novel point we should expect to be brought to us.

53,393. You find no difficulty in taking in boys as you do, without any legal experience, and training them up in the office?—No; at that age they would not have any legal experience. They want experience of the office.

53,394. (*Mr. Coward.*) Discipline?—Yes, and business habits. I think it is altogether a mistake to say that these clerks want legal experience and legal knowledge.

53,395. (*Chairman.*) Do you find any difficulty in getting suitable candidates?—None.

53,396. How do you get them?—By advertisement; and we might have five applications, or about that number, for one vacancy. We advertised for two girls the other day, and had over 100 applications.

53,397. From what class are they drawn mainly?—The boys are the sons of superior clerks, or clerks in solicitors' offices, and commercial gentlemen who are managers of departments—the ordinary clerk class.

53,398. What has been their education generally?—The School Board.

53,399. At what age do you take them?—Fourteen.

53,400. You take them at the end of their primary education, and before they have been to a secondary school?—Yes. When I was in practice I found that the best class of clerk was the boy who came from the Bluecoat School. They had been so much better taught, and had better manners, we used to think when I was in practice.

53,401. How do you decide between the applicants in reply to your advertisements?—The chief clerk holds an examination in which he tests their handwriting and their capacity for doing work. Then he brings up the result to us, and we decide.

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53,402. After they have entered the office do you encourage any further study or education?—Yes, we are very anxious about that, because it really improves them so much. We have not had many, but we have had several who sat for an examination held by a society known as the Chartered Institute of Secretaries. It gives them something to do after their office hours.

53,403. Do they attend evening classes to prepare for that examination?—Yes, some do attend evening classes. We have such classes in connection with our Midland Institute at Birmingham, and also technical classes.

53,404. Can you say whether the practice in other courts is similar to the practice in yours as regards the method of recruitment?—No; I should not like to say it is exactly, but my colleagues on the Committee of the Registrars Association tell me that they generally fill up their vacancies from clerks in solicitors' offices or accountants' offices. I do not know that it is the same practice, probably not, in smaller courts.

53,405. In smaller courts do you think they would be more likely to take men from solicitors' offices?—Older men, I think.

53,406. When the clerks have once come to you, do they practically remain with you permanently?—Yes, they very seldom leave. Looking through my list, I see that some three or four have left and gone elsewhere.

53,407. Was that to better themselves?—Yes. One of them obtained a secretarial appointment with the Marquess of Anglesey. That was a better thing than stopping on. Two left because they were dishonest. Another was consumptive, and had to go out to South Africa; he died there, poor chap. Two others set up in a motor business. Another obtained a very good appointment in a commercial office in Birmingham. Those are all, out of our staff of something like 42 men and boys, who have left since 1912.

53,408. Apart from cases of misconduct, do you ever find it necessary to dispense with the services of clerks?—No. Since my appointment I can only think of three cases, and they were appointed under an old system before we had this system of examination. We really put it to them that their vocation was not the Birmingham County Court, and that they would do better elsewhere. They showed no promise of progression at all. You are bound to hit on those people sometimes, but there have only been three cases since my appointment 10 years ago.

53,409. In the case of a change of registrar, what happens? Does the new registrar ever appoint a new staff?—I should think not. I cannot imagine that he ever would do so. He is new to the work, except for just the experience that he has as a practising solicitor. I can only imagine one case where he would be likely to dispense with the staff, and that would be where the work was so small that it took one clerk a portion of his time—in very small cases. Where there was anything of a staff, I imagine that the registrar would never dispense with it.

53,410. You think that the staff need have no apprehensions as regards the security of their position from that point of view?—That is my opinion, except in cases of very small registries, where a new registrar might be appointed and might be a practising solicitor who would look upon the place as simply almost an annexe to his office, and might very well then dispense with a clerk who was doing the work and let one of his own clerks do it.

53,411. Have you known any case of that sort?—I have not. Thinking it over, that is the only exception I could think of.

53,412. Do you think it desirable that the appointment of the clerks should remain with the registrar?—As long as the present system stands and the registrars are made personally responsible for the work and the honesty of their clerks, I think—and my colleagues of the Registrars Association agree—that the registrar should have the right of selection and complete control over those clerks. We are now personally responsible for anything that a clerk does, and in big courts it is a big responsibility. It is very easy to get a payment posted to the wrong account, and a man comes in and

finds apparently a payment has not been made, and it follows from that very likely that an execution may be issued when it is not issuable, and the registrar is then in for an action for damages.

53,413. (Mr. Coward.) And you have to pay?—And we have to pay. There is no defence.

53,414. (Chairman.) Have you ever had to pay since you have been a registrar?—Small sums. We have never had to pay large sums.

53,415. Does it often happen that a registrar has to pay any large sum?—I have never known a large sum being paid. I know the registrar at Barnet had to pay something like 50*l.* not very long ago.

53,416. (Mr. Coward.) They are small sums with which you deal?—Yes. When a man gets an execution in, when it ought not to have been put in, it is the one thing which damns him for the rest of his life.

53,417. You never knew that?—I have known a man say it.

53,418. You have never known a registrar held responsible for such a thing?—Yes, that is what they hold us responsible for.

53,419. Have you known such a case?—Yes, we have paid where execution has been wrongfully issued. It is so easy to do it. A man comes in and pays 3*s.*, and it is entered in the cash-book and posted to the wrong account. You cannot always get it right. The plaintiff comes in and says, "Jones has not paid the 3*s.*, issue execution," when he has paid and it has gone to the wrong account. Execution is issued wrongly and we have to pay. It is quite a responsibility.

53,420. (Chairman.) The clerks remain permanently, and for promotion have to look to the process of moving up in the office as vacancies occur?—Yes.

53,421. The selection for promotion is, of course, as the original appointment is, with the registrar?—Yes.

53,422. Do you move them up by seniority, or do you select by merit?—We select by merit. We think seniority might be the deciding factor if two men were practically equal, but it is the last thing we should go by.

53,423. You do not often move up a man who is considerably junior to the one over whose head he passes?—No, we very seldom pass them over, but it may happen between two men, one of whom is a bit older than the other.

53,424. Then you do not carry merit further than this, that as between two men of approximately the same standing you would choose the better?—Yes, we should choose the man whom we thought the better without reference to seniority, but if the two men were of about equal merit we should give the senior the preference.

53,425. If you had a man decidedly junior but of outstanding merit, would you put him over the heads of half a dozen clerks senior to him?—Yes, I should not hesitate if I thought him the best man.

53,426. For appointment, say, as chief clerk, you might take a man who was four, five, or six places down the office if you thought him the best man?—Yes, I am sure we should not hesitate if we thought him the best man.

53,427. Does that often happen or does promotion in practice follow seniority?—It is much more likely to follow seniority, because they have worked up and know the work of the office.

53,428. In fact it is more a matter of theory than practice?—Yes, but I say at once that I should not hesitate to do it if I thought the best man was the junior. I should like to explain that by having the copying department we eliminate all those people whose work is not progressive, so really the appointments, when they become vacant, are always confined to men and boys, and girls do not get any forwarder; they keep always in the copying department.

53,429. It results from that that your clerks having better work to do probably have a better scale of salaries generally than if the copying work was done by the clerks?—Yes, because the copying department is run cheaply.

53,430. (Mr. Boutwood.) Do not you mean that that system of relegating men to the copying department in itself is a sort of preliminary selection?—I mean, by

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having these copying clerks, they cannot get any forwarder—not beyond the copying stage—so when an appointment becomes vacant they are not candidates for that appointment.

53,431. But your copying clerks are men or boys who have been weeded out of the other departments?—No, the copying clerks are these girls and the ushers who are not candidates for anything better. The men and boy clerks are not copyists at all.

53,432. (*Chairman.*) Turning to the question of organisation, do you consider that the union of the district registry and the County Court registry, both as regards the registrars and as regards the staff, is a satisfactory arrangement?—Yes, I do.

53,433. Will you explain your reasons for considering it satisfactory?—In Birmingham we issue something like 2,500 writs in a year, and there would not be enough work for one man to be High Court registrar. We find that we can work it in with our other work, and by doing it in that way there is perhaps enough work for the two registrars to perform, and of course they delegate the purely clerical work to the staff.

53,434. You do not find any inconvenience in having too large a scope of work by the union of the two offices?—No, I do not find any inconvenience. We take it alternately, one registrar deals with the High Court one day and the other registrar deals with the High Court the next day, and so on. We work it so that it does not clash with the County Court work.

53,435. You find it convenient to have a united staff for the purpose?—Yes. I have no doubt about that whatever.

53,436. Would it be convenient to go further and unite the probate registry with the other two registries?—That of course would be only in the smaller places. My colleague would say that he thought it might even be done in Birmingham. In smaller places I have no doubt it would be convenient.

53,437. But you think it would not be convenient in larger places?—I think it would be less likely to be convenient.

53,438. (*Mr. Coward.*) Why?—Because I doubt very much whether a man would have time to do the work. I have no experience of probate registry work or what it amounts to.

53,439. Would there be any difficulty in doing it something in this way—that you should have somebody from the Principal Registry who understood all about the work to come down there and superintend and supervise all that class of work?—Then there would be no difficulty at all.

53,440. And I should have thought myself that you might have had one man who would do the whole thing with your assistance; you would only have to have another clerk or two?—We should have no difficulty then in doing it. I have no knowledge of how many grants Birmingham make in a year. I mean at present our time is pretty well filled up, and if it meant much more work I think there would be a little difficulty, but if it was only supervision there would be no difficulty.

53,441. (*Chairman.*) If you had a chief clerk who was thoroughly competent in the probate work, you think that the two present registrars could supervise it in addition to their present work?—Yes, I think so. Mr. Registrar Whitelock goes further than that and says he thinks we could do it anyhow.

53,442. In some of the smaller places you tell us that the probate registry is combined with the other two registries?—I am not sure whether it is actually done—no, I do not know that it is. The registrar at Norwich tells me that he thinks it would be very desirable. The registrar at Carmarthen tells me he thinks it would be desirable, and one or two other registrars have also told me the same thing, that they think it would be certainly very much cheaper, and there would be no difficulty at all in doing it. The registrars in smaller courts are not fully occupied in doing registrar's work. Their court, instead of sitting five days a week, sits one day a month or one day in two months.

53,443. They are not supposed to give their whole time?—No.

53,444. Are you required to give your whole time to the work?—Yes, we are bound to.

53,445. You are not allowed to practise otherwise?—No, we have orders from the Lord Chancellor to that effect.

53,446. Do you consider that any improvement in organisation could be made by abolishing or uniting some of the smaller courts?—I do, and I think it is really at the bottom of anything that is done to improve the County Court system. I do not think we shall do any good until we either abolish or amalgamate some of these smaller courts. May I instance the case of Birmingham. The judge at Birmingham is the judge at Solihull. Solihull is less than 10 miles from Birmingham. Nearly everybody who lives there works in Birmingham, and there is no reason at all why the Solihull work should not be done in Birmingham, and much more conveniently than sending the judge to Solihull.

53,447. (*Mr. Coward.*) It would be more convenient to everybody?—Quite so. There would be no waste of judicial time, because he would get a day's work; but you know there is an enormous waste of judicial time going a distance to try one undefended case and a couple of judgment summonses.

53,448. (*Chairman.*) If it is equally convenient to go to Birmingham why do any of the plaintiffs go to Solihull?—Because there is a question of jurisdiction. Probably there is not any jurisdiction in the Birmingham court, and they are bound to commence the proceedings there.

53,449. They go because they are bound to go there?—Yes, on the question of jurisdiction.

53,450. (*Mr. Coward.*) If the defendant resides within the Solihull district he would have to go there?—Yes, unless the cause of action arose wholly or in part in the Birmingham district.

53,451. (*Chairman.*) The original theory of the establishment of the County Courts was to place a court within ten miles of every person?—I have been told that was the idea.

53,452. But I gather from what you say that you do not attach importance to the continuance of that principle?—Not the slightest. That was in 1847, I believe; and things have altered a good deal since then.

53,453. Communications have, of course, improved since then?—Yes, and, besides, it is a different thing altogether. I put in my précis that the only dissentient voice was the registrar of Bristol, who thought it would not be possible, but does not give a reason. I have communicated with him since, and he says: "I think it would be advantageous. The difficulty would be in getting a clause, if it was necessary to have an Act passed through Parliament, conferring the power." Just in the same way, you know, probably, when it was proposed to abolish the assizes in some of the small towns, there was a great outcry about it.

53,454. His objection referred to a practical difficulty and not to principle?—He was in favour of it as a principle, and thought it would be advantageous.

53,455. (*Mr. Coward.*) You probably would have the same difficulty with regard to shutting up any of the County Courts and moving them, or amalgamating them, that you have with regard to the Assize Courts?—I think there would be. There are certain local strong powerful interests.

53,456. (*Chairman.*) If it was equally convenient to go to one of the larger centres, why should the local interests object?—There is the appointment of the registrar for one thing. I think the duke's or squire's tenants like to have a court close to them.

53,457. (*Mr. Coward.*) All the shopkeepers like to have people there, and the hotel-keeper likes to have them there for dinner?—Yes.

53,458. (*Chairman.*) Then it is rather the indirect considerations than the direct ones which would create a sentiment against the abolition of the smaller courts?—Yes. I think nobody could possibly say that it would not be advantageous to abolish a number of these courts.

53,459. Turning to the question of remuneration, the present system may be described, broadly, as a system of payment by results or piecework?—Yes, except in the larger courts.

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53,460. Except in the larger courts, where there are fixed salaries. Do you consider that the right system?—Personally I do not think it is an ideal system by any means. It does not affect us in Birmingham in any way, because we get our fixed salaries. I thought it might be helpful to the Commission to make inquiries from my colleagues on the Committee of the Registrars Association, and their opinion comes to this. I find that the general opinion appears to be that the system of payment by results is satisfactory on the whole, and that no other system could be applied where the work was not sufficient to occupy the registrar's whole time. Personally, I think it is a horrid system in a sense. May I instance the Courts Emergency Powers Act, where one has the power to remit the fees. A summons is taken out and it is not served. We in Birmingham always remit the fee, but it is rather horrid to put the registrar in the position of handing his half-crown over to the plaintiff. The fee belongs to him.

53,461. Is that one of the Schedule B fees?—Yes, it belongs to him, and if he remits it, he remits it out of his own pocket. I submit that that is wrong in principle. A man ought not to be put in the position of having to decide whether he shall hand over the money out of his own pocket to the plaintiff.

53,462. It was represented to us by one witness that the system of payment by results had contributed largely to the success of the County Court system, because it made everybody connected with the court, and the registrars in particular, anxious to serve the convenience of the public. Do you agree with that view?—I do, but I think there is another side to it: I think it leads a bit to touting for business. Cases come before me where leave to sue is sometimes granted in the smaller courts on affidavits founding the jurisdiction which ought not to be granted.

53,463. What do you mean by "touting for business"?—I should think, perhaps, the clerks might have their salary affected and would be glad to have as many causes as they could. I do not mean the registrar himself.

53,464. Do you mean they actually suggest to creditors the bringing of actions in the County Court?—Possibly. I have been told that it has happened—not in my own court. But what is a more serious difficulty than that is that people can issue a summons in court A if they can found jurisdiction, that is to say, either that the action or part of the cause of action arises there. The forms are laid down in the books. If the registrar grants leave for the summons to be issued in his district, then he secures another plaintiff; if he refuses leave he loses it.

53,465. (Mr. Coward.) It adds considerably to the expense. Supposing a solicitor in place A succeeds in getting a summons against a man in place B outside the district, the costs of the solicitor issuing that summons would be greatly more than if the man lived in the district. There would be the affidavit and the attendance?—Yes.

53,466. It is a substantial addition when you are dealing with small matters?—So it is, but I think you cannot always go into the defendant's district. I think the rules now are about as good as they can be made on that. They do protect the persons generally known as the working classes very strongly.

53,467. And they ought to be protected?—I agree, and ought not to be allowed to have any default summonses issued against them, but only ordinary summonses in the case of men known as the ordinary working men.

53,468. (Chairman.) Your conclusion is, that where the work is only part-time work payment by results is the only possible system?—Yes, that is the opinion of our Committee. My own opinion is not very strongly in favour of it, but on the whole I agree with it.

53,469. (Mr. Coward.) Or you do not dissent?—No, I agree where the registrar does not give his whole time, at any rate I am unable to suggest any better system. Where he gives his whole time I certainly think it would be better if he was paid by a salary.

53,470. (Chairman.) You would extend the system of payment by salary in the larger courts?—I would.

53,471. How would that affect the clerks in the larger courts?—I do not think it would affect the clerks.

53,472. They would remain paid on the same system as at present?—Out of the Treasury allowance for clerk hire.

53,473. Do you consider that the remuneration of the clerks is adequate?—I do.

53,474. How does it compare with remuneration for similar work outside the Government service?—There, again, I thought it useful to get opinions from other courts than mine. The registrar at Bury in Lancashire considers it compares unfavourably, while the registrars at Norwich, Gateshead, Brighton, Newport (Mon.), Rochester, and Carmarthen, and also Birmingham, consider that it compares favourably.

53,475. You, yourself, consider it compares favourably?—I consider it compares very favourably.

53,476. The claim has been put forward on behalf of the clerks, that at any rate those who give their whole time to the work should be made Civil servants, and should be pensionable. Will you give us your opinion on that claim?—First, my opinion is that so long as you hold the registrar responsible for the work and honesty of the clerks, you must allow the registrar to engage, employ, and dismiss the clerks. If you alter that, then of course an entirely new set of circumstances arises. Very few of the registrars themselves are Civil servants. Mr. Bridgeman tells me there are only 12, of whom we at Birmingham are two. All registrars, even of courts of over 6,000 plaintiffs, do not devote the whole of their time to the work; many of them have private practice, and therefore I do not quite see in that case how you could make the clerks Civil servants. Where they issue not more than 6,000 plaintiffs and the registrar's salary is an inclusive one, it seems to me altogether out of the question to suggest that his clerk, who during half his time does his employer's work as a solicitor, and who during the other half of his time is employed on County Court work, should be made a Civil servant. I imagine you could not consider that. Then I think there would be a difficulty in the work of organising where you have courts all over the country, some issuing less than 100 plaintiffs and others issuing 50,000 plaintiffs. The clerks seem to think that there is some analogy between their position and the position of the clerks in the High Court. Personally I do not think there is.

53,477. You do not think that the positions can really be considered analogous?—I do not. I say in my précis why I think they differ. One of the reasons is that the officers of the High Court are concentrated in one office. In the case of the County Courts you have an enormous number, something like 500 different sized County Courts all over the country. I have read the statement submitted by the clerks, and they say that the work is more difficult in the County Court than in the High Court. I really do not agree. I agree that in one sense it is more varied, but in the County Court there is a great deal of work that is not of the calibre of the High Court work—copying and that sort of thing.

53,478. A large amount of the work is of a routine and mechanical nature?—Yes, and I dare say a good deal of it is in the High Court. There is this book-keeping system which has to be done very carefully; but so far as the work itself is concerned, I do not see that it is much more difficult in the County Court, but I understand they make that point.

53,479. The suggestion was that in the offices of the High Court the work is much more specialised, and that a man is doing one particular bit of the work, whereas in the County Court the clerk's work is more generalised and therefore more varied?—One can imagine that to be so. In our court, which is a large court, we specialise, although we pass a man on. A man who is doing plaint office work does nothing else for the time being unless he may assist a man in the money office, who takes in and pays out money, when he is pressed.

53,480. Whereas in one of the smaller courts a clerk would have to do something of all the work?—No doubt.

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53,481. Although the work might be more varied, would it in the smaller courts be of a simpler character?—Much, I should think. Where you get a great number of cases it always complicates the thing.

53,482. Do you think the suggested system of making the clerks Civil servants, and making them pensionable, would cost more than the present system?—Yes, I am sure it would cost very much more. I got out the difference it would cost in the Birmingham County Court if we put every clerk, but not the ushers, up to 100*l.* a year, and I found to raise the clerks in the Birmingham Court getting less than 100*l.* a year to 100*l.* a year, which I understand is the minimum in the Civil Service, would increase the clerk hire by 550*l.*

53,483. You are mistaken in thinking that 100*l.* is the minimum in the Civil Service. In the offices of the Supreme Court it is the minimum, but not in the Civil Service generally?—They said, I thought, in the statement, that they wanted the same salary as in the High Court, and I thought in the High Court the minimum was 100*l.*

53,484. In the High Court it is, but speaking of the Civil Service generally there are many classes in which the commencing salary is a good deal less than 100*l.*?—Then, of course, the difference would not be anything like so much. If you take it at 50*l.*, for instance, it would be even then considerably more than we pay now.

53,485. The suggestion made by the clerks that they should be placed on the same footing as clerks in the Central Office of the Supreme Court would involve the large increase of which you speak?—Yes, because I understand in the Central Office the minimum salary is 100*l.* a year. Then there would be a further difficulty from an administrative point of view. It would be very difficult to establish any exact method of grading in those courts of such a different size. Even in my own court we find that no system could be strictly adhered to. The Legislature from time to time imposes new work on the County Courts, and consequently additional work, on the members of the staff. It is often useful to recognise that work by the grant of a small rise, but if a man has got to his maximum in one class, the only way you could recognise his extra work, if he were a Civil servant, would be to put him into a superior class, which really the increase of work would not justify. Such a method of grading, too, involves annual increases. Any actual grading method where you automatically go up every year so much is not possible in the County Court as it now stands, because the clerk-hire allowance would not stand it.

53,486. That would not be compatible with the system of a fixed allowance for clerk hire?—Clearly not.

53,487. On the other hand, do you find inconvenience arising from the absence of a pension system?—Yes, we do.

53,488. There is difficulty when men advance in years, and become somewhat past their work?—Yes; we suffer from that in Birmingham. Some of these men have been with us for a very long time, and we have had to tell them—three cases I am thinking of—"You know you cannot do the work you were doing and we must reduce your salary," and we have had to reduce their salaries. It is not pleasant to have to do it, but we have had to do it.

53,489. Would it be possible, without making the clerks pensionable on the Civil Service system, to introduce a contributory pension system which would meet that difficulty?—I do not see why not. I should have thought it would be possible. We have, at Birmingham, the Corporation with a scheme of that sort, and I do not see why it should not be done in the County Court—a contributory scheme like they have in big works, where the Government would pay so much and the clerk so much.

53,490. In the case of the Birmingham Corporation, do the Corporation contribute and the clerks contribute?—I believe that is so.

53,491. Are you familiar with the pension system applicable to poor law officers?—No.

53,492. You are not aware whether that is a contributory system?—No, I am not aware of that.

53,493. But you think a system of that kind might solve the difficulty?—I think a system of that kind would remove really any ground of objection that the clerks may have. It is a question of promotion and whether they get on fast enough, and, of course, these old men who have been in the service of the court so long block the way. Any system of pension of that sort, I think, would remove the difficulty.

53,494. (Chairman.) In dealing with the question of pensions for the clerks in County Courts, you have mentioned the objections which you see to applying the regular Civil Service system of pension to them, and you have suggested that a contributory system of pensions would be preferable and would meet the existing difficulties?—Yes.

53,495. Would you apply such a system also to the high bailiff's staff?—Yes, I think I should.

53,496. The executive staff as well as the clerical staff—I mean the bailiffs and warrant officers as well as the clerks?—Yes; I do not see why a pension system should not be applied to them as well.

53,497. You think it might be applied all round?—Yes, I do.

53,498. But you would not change in any way the present system of appointment, either of the registrar's staff or of the high bailiff's staff?—Not so long as the registrars and high bailiffs remain personally responsible for the work and the honesty of their clerks.

53,499. If they were not personally responsible, would you see any objection to a system of appointment, either by some central authority or by competitive examination?—Nothing like the same objections. You would still have the difficulty of having these courts all over the country and organising it. I say this: Supposing all the clerks in Birmingham were Civil servants; we are a long way from London, and on every little irregularity, if we complained, I suppose the clerks would complain to London, and, I think, from a disciplinary point of view, there would be difficulty. Supposing you did want to get rid of a clerk, things accumulate up and up, and you may give him reasonable notice that he may go; but it is very difficult to bring an accusation against him to justify you in coming up to London and going before the head of the department and saying why the man should go. Besides, it would be a much stronger thing, and, I suppose, being a Civil servant, you could not dismiss him.

53,500. Civil servants can be dismissed?—But it would not be misconduct.

53,501. Civil servants can be retired for inefficiency?—Yes, but it is a very difficult thing to prove something against a man, although you may know that a man is not worth his salary and not the man you want.

53,502. You suggest that it would tend to too much centralisation of discipline, and render the application of disciplinary measures difficult?—Yes, I do think that, whether the registrar is responsible or not.

53,503. Are you acquainted at all with the Post Office organisation?—No.

53,504. There you have officers throughout the country with a system of appointment by a central authority. You are not familiar with the working of that system?—I am not familiar with it at all. In the case of the Post Office they would all give their whole time to the work. I still feel that it would be only possible to discuss the question of Civil servants in the case of those registrars and their clerks who give their whole time to the work, and that, I am afraid, would not meet the case of the clerks for the reasons that I gave.

53,505. The pension difficulty would still exist in the case of the part-time clerks?—Yes, it would. In the case of part-time clerks it would be very difficult to work even a pension system, I think.

53,506. Are the hours of attendance long at Birmingham?—No; we begin at 9 o'clock, when the office opens, and we nominally close at 6. The office for the public closes at 4. Then, of course, there are the ledgers to be posted from the cash-books, and there is other work to be done; and I think I could say that in ordinary times the clerks get away about half-past 5.

53,507. What holidays do they get in the year?—The chief clerk gets four weeks, the others get from a fortnight to three weeks. Then there are the statutory

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holidays, which are fairly good, both at Christmas and Easter—two or three daysextra.

53,508. Is there much variation in different courts, or may that be taken as a fair sample?—I think it is a fair sample.

53,509. (*Mr. Coward.*) By “statutory holidays” you mean Good Friday, Christmas Day, and days of that sort?—Yes, the Act provides the holidays. In the Bury Court they do not get so much holiday; but, for some reason, in Lancashire the courts all close the whole of the Whitsuntide week, and the clerks get the whole of the Whitsuntide week.

53,510. (*Chairman.*) Is there any fixed age of retirement for either registrars or clerks?—No, for neither.

53,511. Do you think that there ought to be?—As far as the registrars are concerned, what I feel about it is that we are judicial officers, and at present there is no compulsory age limit for the retirement of any judicial officers. I submit that the registrars should not be selected for compulsory retirement unless as part of a general system embracing judges and other high judicial officers. I know we are administrative officers as well as judicial; still, judicial work is a very considerable part of our work, and it appears to me that there should be no distinction made between registrars, who are the lower judicial officers, and the higher judicial officers.

53,512. Looking at the question on its merits, which may apply to other judicial officers as well as to registrars, do you say it is desirable to have a limit or not?—Yes, I should think it is—not 65, I think that is unnecessarily low. I think it should be 70, but I do not think one ought to work after 70.

53,513. Have you known cases in which registrars have gone on when they would have done better to retire?—No, personally I have not.

53,514. Such cases might occur under the present system?—They might certainly occur.

53,515. As regards the clerks, are you in favour of a fixed age of retirement for them?—Plus pension, I am.

53,516. That is to say, if a pension system were introduced you would also introduce a fixed age for retirement?—Yes, I would, 65.

53,517. Turning now to the district registry of the High Court, may we take it that your observations as to the clerical staff generally, their conditions of service, pension, and retirement, apply also to the staff doing the work of the district registry?—That is so.

53,518. Are there any special observations you would wish to make applying to them particularly?—No; the only man who is exclusively a district registry man is the man who is head of the department, and he could be moved on. Supposing one of the better posts offered in the plaint office, or the staff office, we should move him to-morrow if we thought he was the best man. From an administrative point of view, the district registry is just as much one of the departments of the County Court as far as the working is concerned.

53,519. Is the staff in the district registry appointed by the registrar?—Yes.

53,520. In exactly the same way as the staff in the County Court?—Yes.

53,521. And your observations with regard to appointment apply also there?—They do.

53,522. (*Mr. Boutwood.*) When you advertise a vacancy and candidates present themselves, do you, or does anyone for you, see them? Is there anything approaching to a personal selection?—Yes; the chief clerk holds an examination.

53,523. But I thought that was in handwriting and simple subjects?—Yes; but he makes inquiries as well as to who they are, who their people are, and all that sort of thing.

53,524. It does include some sort of personal appreciation?—Certainly.

53,525. You said, I think, that you neither looked for nor required anything that could be called a legal experience or training in a lawyer's office in your men?—That is so.

53,526. Several witnesses have urged very strongly that for the courts in London that preliminary experience is essential. Is there anything different in the

nature of the work done by the two sets of clerks that would account for that difference of opinion? Are your men doing practically the same sort of work as the clerks in the London offices?—There are certain distinctions; but, generally speaking, it is the same sort of work, with the distinctions that I have already pointed out. It depends very much when you appoint them. Ours are appointed as boys, and they get experience working up through the office. If you brought in a man and put him at the head of one of our departments he would want to have had some experience of County Court work.

53,527. I will put it in this way: If you were suddenly picked up out of Birmingham and dropped down at the head of one of the London offices, would you antecedently expect to have any difficulty in carrying out your Birmingham system in London?—That would only apply to the district registry when you are speaking of the High Court?

53,528. Yes.—I think the clerks in our Birmingham district registry would have no difficulty at all in carrying on the work in London.

53,529. (*Chairman.*) In saying that, are you speaking of the work of the Central Office?—Yes, the Central Office of the High Court.

53,530. You would not apply that to the Chancery office, I suppose?—No, I would not; because, honestly, we do not know much about Chancery in Birmingham; it is a bit more complicated. But for the King's Bench Division work I do not think there would be any difficulty about.

53,531. (*Mr. Boutwood.*) I think you said you had 300 letters a day?—My chief clerk tells me that that is about the number.

53,532. And you have apparently about half a dozen men to deal with them. Your staff office has about seven or eight men in it?—Yes; the letters do not all come in at once, but during the day by different posts.

53,533. But 300 letters is a considerable number. What sort of letters are they? What sort of answers do they require?—Most of them do not want an answer at all. A great many of them are simply enclosing remittances. I suppose the chief clerk brings up in the middle of the day to us perhaps from half a dozen to a dozen letters every day which require our instructions as to how they should be answered. We work it like this: We do not go out to lunch but have it in our chambers at the court, and the chief clerk comes in while we have lunch and we discuss the administrative work there. He brings these letters with him and gets our instructions as to what answers should be sent. As I say, there would be from 6 to 12 of such letters a day to be answered.

53,534. You seem to favour a contributory scheme of pensions for dealing with the difficulty of men becoming incapable of doing their work and staying on too long. That is all very well; a contributory scheme would prevent any difficulty of that sort for the future, but how would you propose to deal with the existing men?—I am afraid the Government would have to pay them; there would be no other way of doing it. It is a real difficulty, these old men who are past their work. I have had a return got out and I see one man in 1901, head of one of the departments, became practically incapacitated for that better class of work, and we had to reduce his salary from 400*l.* to 150*l.* Another man who was doing very well up to a point, in 1901, was getting 245*l.* and is now getting 130*l.*, and it is every bit as much as he is worth; in fact I do not think he would get a job anywhere else at the same salary. Another man who was getting 170*l.* is now getting 110*l.*, and it is honestly as much as he is worth, but the only alternative in those three cases would have been to ask these men to retire.

53,535. (*Mr. Graham Wallas.*) I understand you feel that the administrative conditions of the work, where the officers give their whole time to it in the registries, are very much better than where they are only part-time officers?—I think so. You mean as regards preferment?

53,536. No; I mean that as regards the general conditions of the work from the point of view of the

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public service, it is better that the work should be done by full-time officers?—Certainly, I think it is better that the work should be done by full-time officers, but the small courts are too small to allow that to be done. You could not get a man at 100*l.* a year to do it.

53,537. Do you think it would be possible to make a rearrangement of the districts, so that all work should be done by whole-time officers?—I should hardly think so. There are too many small courts.

53,538. And you could not abolish some?—You could not abolish sufficient to get them near enough.

53,539. You could bring it about in the case of a large proportion of the work?—You could improve it immensely, no doubt, if you could get information as to circumstances, and so on.

53,540. Taking an ordinary manufacturing district where the population is very close, and where you get large towns—the West Riding and similar districts—do you think there it would be possible to have one administrative judicial office where the High Court registry, the County Court registry, the probate registry, and the work of the high bailiff, could all be done?—You could not have it for the whole of Yorkshire. You do not mean that, do you?

53,541. No, I mean in the West Riding of Yorkshire, or the Black Country, would not it be possible to divide it up between offices, each one of which should do all those various kinds of work?—Yes, I should think so. I do not see why you should not. You would have to study the matter very carefully to see what the communications were, and all that sort of thing. I am quite sure that anybody who did that could improve the system vastly beyond what it is to-day.

53,542. I gather you also think that there is no reason why men possessing different skill and experience should not be working in one office, and that a man whose skill is concerned with the probate work, for instance, might work in the same office with one whose skill has developed in connection with High Court work?—Certainly. I have not been in the probate office at Birmingham recently, and do not know how much work they have to do, but when one was in practice one knew all about the work, and I have very little doubt I could pick it up again and learn sufficient of the work to supervise it, if I had the time to do it, in a very short time.

53,543. (*Mr. Coward.*) In a week's time?—I should not like to say exactly that. I should say in a fortnight or a month. One has been told, and I believe it is so, that they only deal with an ordinary common case, and if anything presents any difficulty it goes up to London.

53,544. (*Mr. Graham Wallas.*) But in every Government office, large and small, different officials are dealing with different branches of work?—Yes.

53,545. One obvious difficulty arising from such a rearrangement, in so far as it could be carried out, would be that it would require legislation?—I am not sure that it would.

53,546. If you fused the smaller courts it would?—The rearrangement of County Courts would. They do abolish courts from time to time, but a whole rearrangement, I imagine, would hardly be done by order of the Lord Chancellor; it would require legislation; but I have not looked into the question to see.

53,547. You might get legislation which, instead of making these changes, made it possible to make them by Order in Council, say?—That is the way it would be done, no doubt.

53,548. Then in case of future development, either of population or means of communication, the whole system could be adapted?—That would be the way to do it, no doubt.

53,549. You would prefer not that legislation should make particular changes, but that legislation should alter the way in which changes might in future be made?—That certainly is so.

53,550. Then you argue that it is extremely desirable that the registrar should appoint his own clerks, and you say the registrar would, for instance, naturally wish to retain the services of existing clerks because it would be to his advantage to do so, and that if he has

to work with the clerks it would be to his personal advantage to appoint good clerks. I understand you to mean that even if a registrar was a man quite indifferent to public spirit and was acting entirely selfishly, you can trust to the fact that he has to work with his clerks (putting aside his personal responsibility) to induce him to appoint good men?—I think so. The registrars are hardly appointed from the class of men who do not take an interest in their work, or at least I do not think so. The registrarship is a good appointment and a registrar is rather pleased when he gets it, and wants to do the work well, and make his office efficient. It is new work to him, and he naturally takes on his predecessor's staff.

53,551. But supposing a registrar had become very old and knew that he would only occupy his office for a very short time, and he had an opportunity of appointing someone who was strongly pressed upon him on account of family claims, or something of that kind; if he were a selfish man he might put up with the short inconvenience of having a very incompetent clerk?—But the registrar does not appoint his successor; the judge appoints his successor.

53,552. But it is extremely likely that when once appointed the staff will be carried on?—I think it is extremely likely that the new registrar would carry on the other man's staff.

53,553. Then it is only at the beginning of the registrar's career that this feeling, that he must appoint good men to work with him, exists?—The point I was on was the taking on of his predecessor's staff. He will soon find out that he has to appoint good men to do his work, or else it will get behindhand, and he will get in a mess.

53,554. But at the end of his time that feeling may be weaker?—But he has always the judge and the public behind him, and he has to do his work properly or else he will very soon get pulled up.

53,555. Do you think that is generally true of all cases of patronage, that there are no men who abuse patronage?—I have never had any patronage. I would not like to say that.

53,556.—You say in your *précis*: “The clerks being the registrar's servants, any man who is found to be idle or incompetent, or who shows no sign of developing or fitting himself for higher duties, can be, where necessary, got rid of with great advantage to the service. This would not be so if the clerks were “Civil servants.” As a matter of form, Civil servants can be dismissed for incompetence or idleness just the same as any other employees?—What I had in my mind when I wrote that was this: You may be quite convinced yourself that A. B. is not the man you want; that he shows no sign of progression and will never be worth more to you than 1*l.* a week, but if I am to come up before some central authority in London and say, “I want to get rid of this man; he is no good,” they will say, “What is the matter with him?” and you can bring no actual case of incompetence and idleness against him.

53,557. Do you think, as a matter of fact, men are more often dismissed from the present registrars' offices for a low degree of competence or low degree of industry than is the case in the Civil Service generally?—No. As I say, all through my time we have had only three dismissals for incompetency in the last 15 years.

53,558. Then in that respect there is no advantage in the existing practice?—It is quite right that the registrar should have the power to do it. I think there is something in it.

53,559. (*Mr. Coward.*) It keeps them up to the mark?—Yes, I think there is something in having the power.

53,560. (*Mr. Graham Wallas.*) The Chairman asked you about the Post Office, and you said you were not familiar with it. Are you familiar with the Inland Revenue arrangements?—No, I am not.

53,561. You do not know how in the Inland Revenue efficiency is kept up?—No.

53,562. I gather that you think the existing arrangement by which a man is practically never dismissed until the end of his life—but his salary comes down?—It only comes down in certain cases.

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53,563. The existing system by which a man stays on with diminishing efficiency and diminishing salary as long as he can walk to the office at all is not a good arrangement?—I think it is not.

53,564. And you want a pensionable system?—I prefer it certainly.

53,565. Do you feel that there is a real difficulty about giving to a man who only temporarily holds his office, and may be in the last year of his power of holding the office, the right of appointment to a pensionable position?—But you see the time these men have been in the office—40 years, 39 years, 40 years, 60 years, 40 years, 35 years—you cannot turn these men away.

53,566. But I am talking about the future. Do you see no difficulty about the position in which a registrar, who may be leaving perhaps two years hence, is given the right to appoint a young man to a pensionable position?—I should not have thought there was any difficulty about that. I do not think a registrar would ever do anything improper in that way—appoint a man for the sake of getting him a pension, if that is what you are thinking of.

53,567. If there is any difficulty do not you think the State is bound to take greater precautions where you are appointing to a pensionable post than where you are not?—Yes, I should say so.

53,568. At present there is no inquiry into a man's health?—No.

53,569. And no Civil Service certificate?—No.

53,570. Do you not think that to give the right to somebody to appoint to a pensionable position even without inquiring into his health is a rather strong measure?—I admit at once it would be different and would probably require certain rules and regulations and consideration.

53,571. We have had a document which I think you have seen, submitted by the officials in the County Courts to us, and in the course of it they submit a speech by a gentleman named Fletcher?—Yes, I have seen it.

53,572. He says: "I remember reading the report of the commission or committee appointed a few years ago, to inquire into the subject of imprisonment for debt as it is commonly termed. There were two of the judges who gave evidence, who stated that they seldom cared to make orders of committal, and they found that one of the results was a large reduction in the entry of complaints, a result to which their registrars soon drew their attention, explaining the effect of it upon their salaries." Do you remember that inquiry?—No, I do not remember it.

53,573. Would you like to comment on that statement?—Where a judge seldom commits, it no doubt affects the plaintiffs. There are some judges who practically refuse to commit, and in that case no doubt it does send the number of complaints down, because people cannot enforce their judgments. The judgment summons does affect the number of complaints; it is the fact that if I sue a man in this particular court I may get a judgment, but the judgment will be a barren judgment because he has got no goods, nothing that I can seize, and the judge will not commit him.

53,574. (Mr. Coward.) It is bad for the money lenders?—Yes, it is bad for everybody really; at least that is my view.

53,575. (Mr. Graham Wallas.) Mr. Fletcher goes on to say: "One of these judges said (in effect) that he regretted that the registrars of the under 6,000 courts were paid by results, as he felt that his registrars, all excellent men, could not but be influenced by this circumstance (though entirely sub-consciously) in their attitude towards such questions as judgment summonses and imprisonment for debt." Do you think there is anything in that point?—It is difficult for anyone to think of a matter like imprisonment for debt or any other matter where it does affect his pocket in the same way as he would where it does not in fact affect his pocket. As the judge says, "sub-consciously," it would be very difficult to think of it with an open mind. My views as to imprisonment for debt, where it does not make a snap of the fingers' difference to my pocket, would be quite impartial, but in the case of

another registrar, where it made a good deal of difference to his pocket, he might not, sub-consciously, be so impartial; it is not putting a man quite in the right position to judge.

53,576. You would agree that a question as to whether a right or wrong policy is pursued by the Courts with regard to imprisonment for debt is one which deeply concerns the liberty of the subject?—I do. I do not want it to be felt for a moment that I am not in favour of imprisonment for debt. I am very strongly in favour of it, and I can look at it from an entirely unprejudiced point of view.

53,577. (Mr. Coward.) Not from the prisoner's but from the plaintiff's point of view?—I think from both points of view. I think it is good for the prisoners really, if worked in the way the judges work it in Birmingham. There are so very few men who ever serve their full time, which is what you have to look at, and you must be able to enforce a judgment in some way, and I think it is very much kinder to enforce a judgment by bringing a man up on a judgment summons than seizing his household goods.

53,578. In many cases I believe it makes them produce the money somehow, but I know nothing about it?—They produce the money and do not serve their imprisonment.

53,579. Do you happen ever to have been in a London office?—In a solicitor's office just during the last four months of my articles when I came up here for my final examination.

53,580. How many clerks do you employ to-day, in Birmingham?—56 altogether, including girls and the ushers.

53,581. The whole responsibility for the conduct of your office is centred in the registrar?—Yes.

53,582. You have complete control over the organisation of your office and the control of those in it?—Yes.

53,583. And, I suppose, as a practical business matter, you know all the people and what they are doing?—Yes. I know, generally. I know who the execution clerk is, and who the judgment summons clerk is, and so on.

53,584. In some way or other would you not exercise control over the whole of them?—Yes, I do, with my colleague.

53,585. And if there was any complaint to be raised against any one of them, it would have to be brought to you and you would deal with it?—Certainly. Nobody else would have any power to deal with it. Of course, the chief clerk would make investigations for us, but any complaint would certainly be brought to us.

53,586. And it would come before you?—Certainly.

53,587. And, I suppose, you do from time to time have to deal with such matters?—Yes. Clerks make mistakes, and we have to have them up and go into the matter.

53,588. I suppose if you did find that any clerk was inefficient he would go?—He certainly would if he did not show any signs of improvement.

53,589. I was going to point it in this way: The fact that the clerks know that they are under that sort of control would greatly conduce to their efficiency?—I quite agree, but I do not want you to think that we are hard on them. We should not dismiss for a first, second, or third offence.

53,590. Any more than you would in carrying on a solicitor's business; why should you?—No, the only thing we aim at is the efficiency of the office.

53,591. As I understand, your registry is a big one?—It is the largest.

53,592. And you must have a great deal of work going through your hands?—We do.

53,593. You discharge all the duties that are discharged in the Central Office in London or in the offices in London by the masters, by the registrars, and by the taxing officer?—That is so.

53,594. You do the whole thing?—Yes. When you say "the registrars," I am not sure whom you refer to then.

53,595. The registrars of the Court?—I do not know what the registrars of the Central Office do.

53,596. You do Chancery work if there is Chancery work to do?—Yes.

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53,597. And the drawing up of orders in those Chancery proceedings you do?—Certainly.

53,598. You would refer to Seaton and make the order?—We should certainly do the best we could.

53,599. And you would not think there was any great amount of responsibility resting upon you in drawing up an order?—No; if I had a Chancery order to draw up I should draw it up and, like they do in London, get it approved by both sides, or have both sides before me and settle it.

53,600. Still, the whole thing is done in your office?—Yes, exactly the same as in the Central Office in London.

53,601. No, it is not, because there you are badgered about from pillar to post; the master does one thing and the registrar another. That is the very point I am on?—All those functions are centred in myself and my colleague.

53,602. You take the responsibility for all?—We do.

53,603. (*Sir John Kempe.*) It is difficult for me to understand the enormous gulf which you think is fixed between the responsibility of the registrar, if he appoints his own clerks and if clerks are supplied to him by the State from outside. I do not quite follow. According to your evidence you consider that the selection and the control are the important points?—I think the selection and control are important points. Where the registrar is personally responsible (as we are) for the work and honesty of these clerks, we think we ought to appoint them. If a clerk makes a mistake I have to pay, and I think it would be very unfair to ask me to pay for the work of somebody who was sent down to me from London as my clerk whom I knew nothing about, whom I had not appointed, and whom, perhaps, I did not want.

53,604. Take the selection. You select them first of all by advertising?—The boys, yes.

53,605. The one whom you get you make inquiries about before you take him?—We make inquiries before we appoint him, and know who his people are.

53,606. The people in the State Service are inquired into and are not accepted without inquiry?—I imagine that is so, and they have to pass an examination.

53,607. That is one point, and the other point is that you accept clerks who have been selected by somebody else, because you take over your predecessor's clerks. What do you know about them when you first have them?—Only the experience of the Court. When I was appointed I went on with the present staff and no change was made.

53,608. They had had experience in the Court?—Yes.

53,609. What did you know about their personal qualities or their honesty?—My predecessor was satisfied.

53,610. Would you want any greater security if you had good men supplied by the public service?—No, but my feeling is, that if I am responsible for the work and honesty of a man, I ought to have the power of appointing him or dismissing him. My whole point is that the responsibility for that man's work, or his mistakes, is resting on me, and I have to make good any deficiency—not only deficiency caused by dishonesty, but also deficiency caused by mistakes, which, of course, any clerk may make.

53,611. Take a public office; I have had a good deal of opportunity of seeing what happens in connection with the finance of the public offices. You have given us to understand that there are frequent cases where the registrar has had to make good a deficiency?—I do not want to say frequent, but there are cases. I do not suppose we have had three or four since I was appointed, but they certainly do arise.

53,612. From what I have seen of the finance in public offices, it is extremely rare for any cases of defalcation to be found in the public accounts?—Defalcations, yes, but it is not only defalcations, but also slips and mistakes.

53,613. Where there is cash in question, security is taken?—Certainly, and we take security from all our clerks, we insure them all.

53,614. Then what is the difference between your position and the position in the public service?—Because in the positions you mention they are not personally responsible. As far as I know, there are no other men who do Government work who are personally responsible, except the registrars of County Courts. The Public Trustee is not personally responsible for anything that happens in his office.

53,615. Do you see any advantage in the personal responsibility?—I see a good deal of disadvantage.

53,616. Do you see any advantage to the public service in the responsibility of the registrar?—It saves the Treasury.

53,617. Does it save the Treasury? I think experience shows that public officers who are not responsible are quite as good in the control and the effect of their control over their officers as the registrar who is responsible?—Of course they are as good, but however good they may be, they cannot help clerks making mistakes, just like we make them ourselves. With us it is rather different. I suppose if a clerk in the Public Trustee's Office made a mistake, it could be rectified; whereas, in the case I put, we might post 3s. to a wrong account; the damage is done, you cannot get it put right—execution is issued, and you are landed in an action for damages.

53,618. That is true in the case of the Post Office and the Inland Revenue; judgment does not follow so quickly as that, but there is the responsibility?—There is, but as far as I know, there is no personal responsibility on them; but I am not saying that the other offices are not as well controlled as ours.

53,619. Responsibility of a different sort is equally effective?—Yes, and they work their offices every bit as well as we work ours.

53,620. Then I do not know that there is any advantage in responsibility?—I should be very glad to be relieved of it.

53,621. Do you think there is any real difference? Supposing you have been in an office for some time, and got to know the clerks and understand them—do you think you would find any great difference between the staff of clerks under you whom you appointed yourself and those whom you found in the office appointed by anybody else? Do you seriously think you would find any difference if you are a man who has proper control and can discipline the office properly?—I honestly think it makes for efficiency if a clerk knows that I can dismiss him and control him. I think, certainly, that it makes for the efficiency of that clerk much more than if he knows I can do nothing with him, or that before I could dismiss him I should have to go to London. I honestly think that.

53,622. It makes for efficiency, but does it make all the difference?—It makes for efficiency. That is my view.

53,623. With regard to the difficulty of grading your clerks and having your clerks in classes, that of course is the practice in all public offices. Take the Treasury: Every year there are new duties imposed upon that office; the clerks all have to learn those new duties, and they learn them easily and well. They have not to alter the proportion of classes beyond adding to the office so far as is necessary to increase the number; they keep the same proportions more or less. It does not matter what the proportions of the different classes in the office are as regards change of work or new work. Why should it be any different in your offices?—Where a man has to do more responsible work it is an advantage to the registrar to be able to remunerate him for that work. Supposing he has got to his maximum in class 2, if he gets more work to do, either you must not remunerate him extra at all or put him into class 1. The extra work that he does is not enough to put him into class 1, and therefore it is an advantage to be able to raise his salary by a small amount. That is not so much the difficulty, but the difficulty in the grading is that it involves an automatic increase year by year in everybody's salary, and that we cannot have in the County Court because we have only a certain sum for clerk hire, and that sum will not stand an automatic increase.

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Mr. ARTHUR LABRON LOWE.

[Continued.]

53,624. But if you had an automatic increase like there is in the rest of the public service, your work could be done equally well, and you could arrange your new work equally well?—If we had an automatic increase, it would be very nice for the clerks and save us a good deal of trouble, but it means that the clerks are to become Civil servants.

53,625. But you would accept the Civil Service regulations provided you had yearly increments?—I would, for those clerks whose registrars are Civil servants. I do not think it a good thing to have the clerks Civil servants and not the registrars.

53,626. And they would accept, I suppose, a rather lower scale of salary in consideration of pensions being added?—The two things are quite different—the Civil Service and the pensions. Admitting that you cannot have the general Civil Service system in the County Court as you certainly could not for the part-timer, thinking it over, the contributory pension scheme was the best solution that I could think of for the difficulty.

53,627. (*Mr. Shipley.*) A question about the building where you work in. Is it a public building?—It is a separate building built for the County Court.

53,628. Is it kept up by the Board of Works?—Yes, it is under their control.

53,629. Is it overcrowded or ill-ventilated?—Personally I do not think the ventilation is much worse than anywhere else. I remember when I was appointed there was a paragraph in the paper stating that they hoped the authorities would soon erect another building; but they have not, and they will not, I am sure. All courts are bound to be not very well ventilated. We are not overcrowded. Mr. Tosh, of the Public Works Office, comes round every year and sees what wants

doing in the way of painting and whitewashing, and is always very good, and we get on very well.

53,630. They keep the building fairly well repainted and that sort of thing?—Yes, we have no cause of complaint in the least. Sometimes we ask for things we do not get; but taking it all the way along there is no cause for complaint.

53,631. I thought you could get anything if you only put it under the head of "Stationery"?—We do not now.

53,632. (*Chairman.*) You were asked some questions about legislation in relation to changes of County Court districts?—Yes. I am not sure if the Lord Chancellor has the power under the Act as it is.

53,633. Is it not the case that under Section 4 of the Act of 1888 there is full power by Order in Council to alter the number and boundaries of districts, and otherwise modify the districts?—Yes; but whether that would be sufficient for a complete new system I am not sure. It is done now, and from time to time I know certain courts are abolished.

53,634. That section, at any rate, appears to give full power to abolish any districts if so ordered by His Majesty in Council?—Yes. Whether they would consider that sufficient for a complete new system I do not know.

Mr. Chairman, I should like to add that in the preparation of my précis my colleague, Mr. Whitelock, has assisted me very greatly, and the opinions therein set forth are his as well as mine. I have also communicated with the Committee of the Registrars Association from time to time, and I think it also expresses the opinion of that committee as well as my own.

Mr. WALTER EDWIN DAVEY (High Bailiff, Birmingham County Court), called and examined.

53,635. (*Chairman.*) You are the high bailiff of the Birmingham County Court?—One of them.

53,636. How many are there?—Two.

53,637. How long have you held the post?—Since July last year.

53,638. What was your experience before that?—I was chief clerk to the high bailiff of the Birmingham County Court for 40 years. I have been there 44 years.

53,639. So that practically the whole of your official life has been passed in the office of the high bailiff of the Birmingham County Court?—Yes. Prior to that I was in West Bromwich County Court for a short time.

53,640-1. What are the duties of a high bailiff?—The duties of a high bailiff are prescribed by section 35 of the Act of 1888. He has to sit in court; he has to serve all the summonses, execute all the warrants, processes and writs, and see to the general rules of the office.

53,642. He is also responsible for the work of his subordinates?—Yes.

53,643. In serving summonses and executing process I suppose he always acts through his subordinates?—Always.

53,644. He does not execute any process himself?—No. Under the Treasury instructions, in courts of over 6,000 plaintiffs, he has to stay in the office and supervise the working of it.

53,645. He has also to advise and direct the bailiffs when levying execution?—In difficult matters.

53,646. Does that often arise? Do they often have to refer to you?—Frequently I have a telephone message from a man who is in trouble and he states the facts of his case, and I have to advise him what to do.

53,647. Apart from that he has to direct his office?—Yes, generally.

53,648. How many clerks are there in the office?—Seven at present; one is on active service, leaving six.

53,649. What is the salary of the chief clerk?—At the present time it is 230*l.* a year.

53,650. Does that include the schedule B fees?—No, that is exclusive of the schedule B fees.

53,651. How much do they amount to?—They bring it up to 265*l.* 12*s.* 5*d.*

53,652. What is your own remuneration?—750*l.*

53,653. How is that fixed?—The allowance for the two high bailiffs is 1,000*l.* a year, and my colleague is very ill. I am discharging his duties, and he has 250*l.* out of the 1,000*l.*

53,654. Then have you the schedule B fees in addition to that?—No, personally I have nothing except the salary.

53,655. An inclusive salary of 750*l.*?—Yes.

53,656. What becomes of the schedule B fees?—They are divided up amongst the clerks and used for the purpose of working the office—the general expenses, and all that.

53,657. The high bailiffs themselves have entirely a fixed salary and do not participate in the schedule B fees?—That is so.

53,658. You told us the chief clerk's salary. What are the other salaries, including the schedule B fees?—The second clerk gets 158*l.*; the third clerk, 122*l.*; the fourth clerk, 106*l.*; the fifth clerk, 91*l.*; the sixth clerk, 77*l.*; and the seventh clerk, 49*l.*

53,659. What are the numbers of your staff of bailiffs?—They consist of two classes, warrant officers and process-servers. The present staff consists of seven warrant officers, one of whom is on military service, and 14 process-servers, and out of that number I have five on military service.

53,660. What are the bailiff's wages?—In the case of the warrant staff the minimum salary we have is 30*s.* a week with an annual increment of 1*s.* a week up to a maximum of 45*s.* a week.

53,661. Have they any schedule B fees in addition?—No.

53,662. What are the wages of the process-servers?—The minimum wage is 25*s.* a week with an annual increment of 1*s.* a week up to a maximum of 35*s.*

53,663. Do they get schedule B fees?—Yes.

53,664. Up to what amount?—It just depends upon what service they make. They are paid so much per summons.

53,665. The amount added to their salary from those fees would, as a rule, be not more than 3*l.* a year, I gather?—It might average that. It varies very much; it depends what summonses each man has.

53,666. Will you tell us very briefly what the duties of the clerks in the office are? May it be summarised

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Mr. WALTER EDWIN DAVEY.

[Continued.]

in this way: that they do the office work connected with the service of summonses; the execution of process, and the recording of the results of those operations?—That is so, and they receive cash, prepare the warrants, and pay the cash over to the registrars.

53,667. Is the cash which they receive the cash which results from the executions?—Yes, and money paid over the counter by the suitors. There are various moneys.

53,668. But not the moneys paid into court?—Yes, these are the moneys that are paid into court. They are paid over by the bailiffs who have obtained them through the execution processes, and they are paid over by the high bailiff daily into the hands of the registrar.

53,669. Do the payments made to the court direct by the debtors pass through the hands of your clerks?—No, they go to the registrar. It is only under the executions that they reach the high bailiffs' department.

53,670. The warrant officers are the men who levy the executions?—Yes.

53,671. Is their work difficult?—Very difficult at times, and very dangerous sometimes.

53,672. Do they ever suffer personal injuries?—Very often.

53,673. Does their work require much exercise of discretion?—A great deal.

53,674. In what sort of matters?—In the mode in which they execute warrants and the difficulties they meet with, such as claims. There are all sorts of subterfuges put forward in order to avoid the levying of the execution. All sorts of evidence is tendered, true and untrue, and they have in a great measure to use their discretion on that. If they find themselves in a difficulty, and if there is any communication with the office, such as by telephone, or otherwise, they communicate at once or come back to the office for instructions.

53,675. The process-servers serve summonses?—They execute the warrants of arrest and serve the summonses. They may be assaulted in the execution of their duties; they have to be up very early in the morning, turn up at 4 o'clock very often to get the debtor before he gets up or as he goes to work; and in difficult cases they have to wait until late at night in order to catch him as he returns home to bed.

53,676. By whom is the high bailiff appointed?—By the judge under section 33 of the County Courts Act.

53,677. Is there any statutory qualification?—No, there is no particular qualification.

53,678. What is the experience that you think desirable?—He has to be well up in law, and he should have considerable experience if he is to become an efficient officer, as he has to direct his men.

53,679. Is the high bailiff often appointed, as you were, from the clerical staff of the high bailiffs' office?—Yes. For instance the high bailiff of Liverpool was a clerk: so was the high bailiff of Manchester; the high bailiff of Shoreditch; the high bailiff of Coventry; the high bailiff of Nottingham, and myself.

53,680. We have been told that in all except the largest courts the office of high bailiff is gradually being absorbed in that of registrar?—That is so in a great many courts. In a large court it is essential that there should be a separate high bailiff.

53,681. In a court such as that of Birmingham it would not be advisable to merge the two offices?—I do not think it would be wise.

53,682. Why?—The duties would be rather more than the registrar could contend with, because it takes a high bailiff all his time at Birmingham to look after the place.

53,683. In fact it is from the volume of the duties rather from their nature that you think it is necessary to keep it separate?—That is so.

53,684. Do you yourself appoint your staff?—I shall do when it becomes necessary. I have been appointed but a short time.

53,685. Did you take over the clerks you found in the office?—Yes, that has been the invariable custom at Birmingham.

53,686. Have you ever known a case in which a new high bailiff did not take over the clerks who were there already?—No.

53,687. From what class are the high bailiffs' staffs selected—dealing with the clerks first?—We either get them from solicitors' offices or advertise for them.

53,688. You have heard the evidence given this morning about the manner of selection of the registrars' clerks?—Yes.

53,689. Do you employ the same method?—No. The youngest clerk we have been in the habit of taking is one about 18 or 19, and he is put on at the bottom and works his way up.

53,690. Do you generally get them from solicitors' offices?—When we can; otherwise we have to advertise.

53,691. Do you think it desirable that they should have had experience in a solicitor's office?—The head clerk certainly should have experience, because he has to act for the high bailiff in his absence when he is in court, or when away for a vacation, or anything.

53,692. The head clerk, as a rule, would have worked his way up in the office?—That is so.

53,693. So he would have acquired the necessary experience in the office?—Yes.

53,694. For a young man entering at the bottom, is it necessary that he should have any legal experience?—No, because he has it as he goes on.

53,695. He can learn in the office?—He can learn in the office.

53,696. Then from what classes do you recruit the staff of bailiffs and process-servers?—We generally like to get hold of ex-policemen, if possible; they make very good men for that purpose. In regard to warrant officers, we want good, sharp, shrewd men who know their way about, owing to the nature of the duties they have to discharge. In the same way, with respect to the process-servers, you want a good, smart man who can read and write well and use wise discretion in making arrests.

53,697. You say you have not had any appointments to make as yet?—I have not personally.

53,698. But, from your having been in the high bailiff's office, you have seen the appointments that have been made?—Yes, I have generally investigated them myself before the actual appointment has been made.

53,699. Has there been any difficulty in finding suitable candidates?—Yes; because it is not every man who will suit that work. It is not congenial work; they do not care for it.

53,700. You are speaking of warrant officers and process-servers?—The warrant officers. The process-servers there is not so much difficulty in getting; their work is not so disagreeable as that of the warrant officers.

53,701. Do you recruit those also from ex-policemen?—Ex-policemen, if we can; but the practice at Birmingham has been, we have possession-men—men who, when the levy is made, are left in possession to keep safe custody of the goods. Formerly we had an average of about 15 and sometimes 20. We used to have a good staff then, and the practice was, that if those men behaved themselves and did their work well, we appointed them as process-servers and warrant officers. A warrant officer's duty he has to learn before he goes on the permanent staff. He could not act unless he was taught, and these men are taught by being with the officer who makes the levy and leaves them in possession.

53,702. Do you consider that the present system of nomination and promotion is a satisfactory one, speaking of the high bailiffs' staffs generally?—Yes.

53,703. The nomination and promotion is in the hands of the high bailiff himself?—Yes. In regard to the process-servers and the warrant officers, there is really no promotion except from the ordinary warrant officer to the chief warrant officer, and he gets an increase of 5s. a week. With respect to the others there is really no promotion, because when a man leaves, instead of being allowed to promote the men up and let them take the predecessors' salaries, that is not permitted; we have to appoint a new man at the bottom and pay him the minimum salary.

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[Continued.]

53,704. They are on a progressive scale?—They are on a progressive scale, but it is a very slow scale, because it takes a warrant officer, who starts at 30s. a week, 15 years to get to his maximum of 45s.

53,705. Do you consider the pay adequate?—The warrant officers are fairly well paid, but I do not consider that the process-servers are. It takes a process-server 10 years to get to his maximum, starting at 25s. and going up to 35s.

53,706. Are many of them in receipt of police pensions?—I have only one or two, I think. I had considerable difficulty only last Friday with regard to the process-servers. They are dissatisfied, because the Treasury will not grant them an increase of wages; an application was made, but it was refused. When that intelligence was conveyed to these men, having regard to the fact that the workpeople themselves all round were granted either an increase or a war bonus, they were very dissatisfied with it, and one or two resigned, and the others gave me to understand—if they did not say so in so many words—that they would resign.

53,707. That is a special circumstance arising out of the war?—Yes. If they did resign it would be a very awkward matter for the Court, because ours is the Executory Department, and it would practically stop the work.

53,708. Apart from those special conditions, do you think that in normal times the salary is adequate?—No; I think the wages of the process-servers are not sufficient. 25s. a week is totally insufficient to keep a wife and family on and bring the children up properly; the increase is so very small.

53,709. You are speaking of the minimum. Do you consider that the maximum is also insufficient in their case?—The maximum, I should think, would be sufficient, provided they reached it quicker. Theirs is very laborious work, on account of the many hours; they have to be out early and late in all weathers.

53,710. You are aware that a claim has been made on account of the County Court staff generally to be made pensionable?—Yes.

53,711. Will you give us your views on that claim, as applied to your staff?—I think it would be most desirable that they should be made pensionable, because old men get kept on when they are long past their work, and it reduces the efficiency of the department. I have had an experience of five men in that state in my time. The course we adopted in their case was that these old men who had reached their maximum were paid a given sum out of it. A man was employed at the minimum salary and the balance was paid to the retiring officer. Even that did not work satisfactorily, because after the man who was receiving the minimum salary had been at it, say, about 12 months he became dissatisfied, because the other men were paid for the same work that he was doing more money.

53,712. Then you would be in favour of some system of pension. Would you combine that with a fixed age for retirement?—Yes, I should.

53,713. What age would you fix in the case of your staff?—I should say 65, because, owing to the nature of the duties of these men, they get old rather early.

53,714. You have heard Mr. Lowe's evidence on the subject of a contributory system of pensions. Do you think such a system would be applicable to your staff?—Yes, I do not see why it should not.

53,715. If they were made pensionable on a contributory system, do you consider that the system of appointment and promotion could remain as it is at present?—That would all depend upon how it was worked out. If they became pensionable I am afraid it would not work in that way.

53,716. Usually pensionable officers are appointed by a central authority, but there is nothing impossible in having pensionable officers who are nevertheless appointed by their immediate superior. It is a question of expediency?—It would be desirable if the registrars and high bailiff could have the power of appointing them.

53,717. You would prefer to retain the power of appointing them and of dismissing them?—Yes.

53,718. Do you, as a matter of fact, ever dismiss a man?—Yes, we have had to do that over and over again.

53,719. For misconduct or inefficiency?—That has been for misconduct.

53,720. Do you think it desirable for the purposes of control that you should retain that power of dismissal in your own hands?—I do, especially in our department.

53,721. Why especially in your department?—Because the risks of the high bailiff are so great. If an officer chooses to misbehave himself and goes and levies a warrant mischievously and purposely on the wrong person the high bailiff is liable in damages. It is always wise not to keep a man in our department under notice for that very reason, because he might create an immense amount of damage by misbehaving himself in that way.

53,722. Do you mean that you can dismiss your staff without notice?—Yes. That is the rule in our department, and it has been for many years.

53,723. They can be dismissed immediately?—Yes; they are engaged on those terms. For instance, 25 years ago my predecessor had three men abscond with 40l. each, and he had to pay the whole of the money.

53,724. Do you take a fidelity insurance from your men?—Yes, they are all guaranteed.

53,725. So that that money did not come out of the high bailiff's own pocket?—Unfortunately at that date it did, because they were not guaranteed then. They have all been guaranteed since.

53,726. Are all your staff whole-time employees?—Yes.

53,727. They are not allowed to do any other work?—At night, after office hours, they may if they choose.

53,728. But they are obliged to attend during the whole of the office hours?—Yes, the whole of the time.

53,729. In the case of the smaller courts, can you say whether the high bailiff's staff are whole-time employees?—I believe in some cases they are not, but I have very little knowledge of that. The whole of my time has been spent in the Birmingham County Court, where they are whole-timers.

53,730. (*Mr. Coward.*) You have been brought up in the office?—Yes.

53,731. All your life?—Practically all my life.

53,732. Where were you before? What did you start as?—I started in the County Court. My father was chief clerk in the West Bromwich Court for 56 years, and I started there.

53,733. (*Mr. Graham Wallas.*) I understand that your colleague is unfortunately ill just now?—I am sorry to say that that is so.

53,734. And there is an arrangement by which he receives 250l. a year, and you do all the work and get 750l.?—That is so.

53,735. That constitutes, in effect, a sort of retiring allowance?—Yes, I am afraid it does.

53,736. Was that arrangement purely a personal one between yourself and him, or did it require to be permitted or ratified by some higher authority?—It is sanctioned by the Lord Chancellor.*

53,737. The Lord Chancellor can give or refuse leave for that?—Yes.

53,738. You state in your précis: "Formerly pro-
" motion was allowed by the Treasury, but has been
" discontinued for some years"?—That is, if you dismissed a man, or a senior officer should die, instead of allowing the high bailiff to promote the men up at the salaries of their predecessors, we have to appoint new men at the bottom at the minimum salary. The former system has now been discontinued for some years.

53,739. That is to say, no man goes up unless his years of service entitle him to, and he only gets his increment according to his years of service?—That is so.

* I should have said the judge.—W. E. D.

ONE HUNDRED AND TWENTY-NINTH DAY.

Wednesday, 28th April 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*)

Sir JOHN ARROW KEMPE, K.C.B.
 Mr. ARTHUR BOUTWOOD.
 Mr. JOHN ROBERT CLYNES, M.P.
 Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.
 Mr. GRAHAM WALLAS.
 Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. FRANCIS AUGUSTUS STRINGER (Superintendent of the Scrivenery Department of the Royal Courts of Justice), accompanied by Mr. KEELING (Assistant Superintendent), recalled and further examined.

53,740. (*Chairman*.) You told us, when we had the pleasure of seeing you before, that you are Superintendent of Scrivenery for all departments of the Royal Courts of Justice?—I am.

53,741. Will you tell us how the Scrivenery Department is managed? Is it under the control of a Board?—Yes, under the control of a Board.

53,742. What is the composition of the Board?—The composition of the Board is one of the Masters on the King's Bench side, the Senior Registrar on the Chancery side, and the Official Solicitor.

53,743. That Board exercises control of the Scrivenery Department through you as superintendent?—That is so.

53,744. Is the management in detail left to you, or does the Board deal with the current questions?—Whenever any question of some importance or some question which requires consideration arises I generally mention it to the members of the Board, and there is a meeting of the Board held for the purpose of disposing of the questions, but as far as the actual management of the department is concerned it rests with me.

53,745. How often does the Board meet?—It depends. We have had questions raised of various kinds which have required attention, and then they may perhaps meet three or four times within a month; but beyond that they probably meet five or six times a year, say.

53,746. How many writers are employed in a department?—At present we have 43 writers and one typist.

53,747. How are they selected?—They are selected by the Board. The method of selection is this: There is a very great demand among men who belong to the scrivenery industry to get on to our staff, and anybody may send an application to me with a specimen of his handwriting and copies of testimonials. All the applications are filed. If I think possibly that an applicant has not done justice to himself by his specimen, for instance, I would tell him so, and that I think he had better send another specimen, and perhaps show him some of the type of work that we want so that he should have a fair chance of being able to put forward the best he could in his application. Sometimes we have as many as a hundred waiting. We had once 175 applicants waiting. I suppose now we have about 70. When we want a new writer, when there comes a time when one of the men dies or we find that the general trend of the work is rather more than we can manage, I mention it to the Chairman of the Board, Master Archibald, and a meeting of the Board is called. I may say that I myself always attend the meetings of the Board. Then we—Mr. Keeling, my assistant superintendent, and I—go through all the specimens we have, even if there are a hundred of them, and we know what we think are the better class of writing and the type of the better kind. Then we sort them out into one, two, or three classes, and we take those to the Board and we leave the whole of the list with the Board. The Board then goes through our class one, our class two, and our class three, and the Board will if they think it desirable take a specimen out of class one, class two, or class three and put it into one of the other

classes—perhaps in the first class. They go through every one very carefully and do it separately. Then I see them always, and each one that they have gone through they show me what they are doing with it. We put them into classes, when they finally settle the best class. Afterwards the others are reserved. In the case of the best class, which may number 20 or 30 or something like that, each member of the Board goes through them, and they have a meeting and discuss, after they have carefully gone through and made all their notes, as to which they think is the best, and they look at the testimonials and all that. Of course anything I have noticed with regard to the testimonials or with regard to the work I mention to the different members of the Board, and then they make their selection. As they go through them they number them, and the three of them together make their choice. Then they meet and discuss the different ones, and the one they select as the best is accepted.

53,748. Is there any personal inspection of the candidates?—I see them when they bring in their specimens. They see Mr. Keeling, and see me, and we form our impression of them, and the Board also see the writer who is appointed.

53,749. Do you have any medical inspection or examination? No. I do not think a medical inspection really would apply to a case like a writer because he is being paid piecework.

53,750. I am not asking the question so much with regard to the present position, but with regard to the possibility of a pension system. It has a bearing on that question?—I quite agree, if a pension system be introduced, which I hope it may, it would be then of course necessary that there should be a medical inspection.

53,751. When a writer is appointed, how far is it a permanent appointment?—If you go by experience it is absolutely permanent. I have known the scriveners now as long as I have been in the Service, and in 40 years we have had one or two who have gone, from illness, but that would not make it less permanent; but barring that, there has been no instance of a writer going or leaving, as far as I remember, except that we have one case, I think, in the last 30 years where a man was dismissed.

53,752. Have any of them been appointed to clerkships?—Yes, they have been appointed to clerkships, but there again a difficulty has arisen. They used to be able to do that, but there is a regulation of the Treasury which, in my opinion, is very hard. I do not say that there may not be reasons from an official point of view, but it is a very hard regulation, and I should like very much to see that got over.

53,753. What is that regulation?—The regulation is this: There are certain posts in the courts which we used to be able to get for the writers—for instance, the clerks to the registrars—not the principal clerks to the registrars who assist the registrars in their work, but the clerks who keep their papers for them and make their appointments and do various things of that sort.

53,754. The third class clerks in the Registrars' Office?—They are third class clerks in the Registrars'

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Office, and they have no right of promotion. They cannot be promoted beyond that. There is no promotion, because there is nothing above them except the posts which have a professional qualification. We have got one or two of the writers appointed there, but of course these writers are married men and have families, and they have to keep their families, and when they are earning, as many of them are, 160*l.* and higher than that—but put it at 160*l.*—they cannot take the clerkship when the chance is open. There are very often writers I should like to recommend for one of those clerkships where they would rise to 200*l.* a year, and which would be pensionable. We used to do it and did it for a good many years. It was done without any question with regard to it. We put the man in and he got his 100*l.* a year and lost then 60*l.* a year by taking the post. We nursed him, as it were, until he had wiped that out by giving him the first year 60*l.* worth of copying. Of course it was paid piecework, and if he had not done it someone else would; so there was no loss anywhere to the Treasury. The next year we gave him 50*l.* worth of copying, because he received 10*l.* increment, and so on; the next year 40*l.*, the next year 30*l.*, the next year 20*l.*, and the next year 10*l.*, and after that, as he had reached his 160*l.* in the permanent post, we let him go on in the permanent post and no scrivenery work would be given to him. A comparatively few years ago an objection to that being done was raised by the Treasury. Of course it was all done in the sight of the Treasury, because any work that is done in the Scrivenery Department is all paid for by the Treasury by Treasury warrant. Therefore they found they paid two warrants to one man. They had not objected to it for years, and it was of very great use, and I think a very advisable thing to help the scriveners; but that was stopped, and now we cannot get the posts for the men because the men who would be likely to have the chance of getting the posts would be our good men earning a very good income, and therefore, as they have to support their families, they cannot afford to take a post at 100*l.* and wait six years before getting up to what they were earning.

53,755. Have you a list of the writers with their ages and length of service?—Yes, of the staff as it stands now. (*Handing in the same.*)

53,756. I see from this list that the oldest writer is 69 years of age?—Yes. He is a thoroughly prolific writer and a first-rate writer now.

53,757. There appear to be 10 out of the 43 who are over 60 years of age?—Yes.

53,758. It appears also that one writer has served as long as 49 years, having entered the department in the year 1866?—That is so. Of course that is partly explained by this: There is no object in having an age limit. If they are thoroughly capable as young fellows and they are up to their work, well, we are glad to have them young, because we have no means of getting rid of them at all when they get old.

53,759. It appears also that 11 writers have served in the department for 30 years and upwards?—Yes, that is so.

53,760. You mentioned that you employed one typist?—Yes.

53,761. Is that a man or a woman?—A woman.

53,762. Is she paid by salary or piecework?—She is paid the usual rate. I think she is getting 65*l.* a year now—25*s.* a week.

53,763. Will you tell us the rate of pay for the various kinds of work done by the writers?—We pay by the 100 folios, and there was a reason why they were paid in that way instead of by the folio. When you ask me about the formation of the present Scrivenery Department I will be able to explain that payment.

53,764. Will you explain it now?—That goes back to the time when the present Scrivenery Department was formed in 1891. Prior to that time all the different departments of the Law made their own arrangements for the copying of their documents, and when any documents were required—any office copies bespoken, drafts bespoken, and things like that—the different departments made different arrangements. The Central Office had a Scrivenery Department, but it was only doing the work of the Central Office. Then the Registrars De-

partment had a separate arrangement; they had a stationer in it, who was not an official and who was not paid by the Treasury—at least, the supply came from the Treasury, but he was not personally paid any remuneration by the Treasury; he was a law stationer and he employed what writers he liked; he was given certain rooms and employed his own writers, and the payment to him was 1½*d.* per folio for the copying that was done. That was the main payment. There were varying ones with regard to engrossing on parchment, for which I think they used to pay 2*d.* per folio—and that is the ordinary price for it—and 1½*d.* for ordinary copying. He paid his own writers. What he paid his own writers had nothing to do with the arrangement. The sole arrangement was that they gave him room to have writers there, and he paid his own writers. As a matter of fact, I think, he paid his own writers a penny a folio.

53,765. Are you speaking throughout of folios of 72 words?—Yes, all the time; that is our only folio. He paid a penny a folio to his writers, so his writers of course were paid practically what the trade paid them outside; it was all perfectly fair and properly worked. All the Chancery offices in the different chambers had their own law stationers outside, and they paid the law stationer 1½*d.* per folio for the copying; that is to say, the parties paid really, but it was done under them there because it was their own original document on the file, and they kept control over it, but it went out of the office to the law stationer's office to be copied. In 1891 there was a great movement about all kinds of trades in London, and all sorts of disclosures were made about sweating, sub-letting, and farming-out. I ought to mention that the Lunacy department had a similar arrangement to the Chancery Chambers. At that time there was a good deal of excitement with regard to the sweating, and it dawned upon us at the Law Courts generally—the matter was discussed there—that there was farming-out going on to a very considerable extent. I was consulted about the matter and I made inquiries, and found out that what had happened was really extremely bad; it was quite right as regards the Registrars' Office because they had their own stationer there, and they paid him a certain amount, but when it came to these documents sent outside, the law stationers who took them took on a great deal more than they could do and they sub-let the contract; they took the contract at 1½*d.* and they paid their writers presumably a penny; they sub-let a part of the contract to another law stationer at 1½*d.*, who instead of paying a penny a folio paid ¾*d.* a folio to his writers. We really found out it was so bad that in one case—a very small one—a second sub-letting of part of the contract like that had been made, and two writers were actually only receiving ¼*d.* a folio. Once the matter was looked into like that it became necessary that it should be dealt with as a complete scheme. In 1891 Sir George Murray (then Mr. Murray) of the Treasury, and the senior registrar, and the senior master of the Central Office, were created a committee which met together and decided and consulted me with regard to it, and I gave a great deal of thought to what should be done. I came to the conclusion that I would make what was tantamount to an offer—of course, it really was not an offer, but still it was a suggestion I was willing to try to carry out. I said that if the Treasury could give 1½*d.* a folio, less 7½ per cent. for cost of management, a department could be formed which could embrace everything at those rates, and the writers should be paid the whole 1½*d.* a folio, less the 7½ per cent., instead of being paid at the much lower rates that they were paid, which I thought were scandalous in many instances. That is the foundation of our scheme, and that is how the scale came to be arranged, and I may say that we took over many of the writers who had been sweated outside. The 7½ per cent. is reflected in the 100 folio system of payment. The rates we charge for engrossing on parchment at 15*s.* 5*d.* per 100 folios is 2*d.* per folio, less 7½ per cent.; that is how it works out. Then the copying and examining at 11*s.* 7*d.* per 100 folios is the 1½*d.* per folio, less 7½ per cent.

53,766. That is the rate for copying and examining?—That is the rate for copying and examining.

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53,767. How is the examining done?—One man reads and the other man follows.

53,768. How is the rate of 11s. 7d. per 100 folios divided between the man who writes, the man who reads, and the man who examines?—We pair them permanently; two men work together and they examine one another's work. One man examines the other man's copying for him and the other examines that of the first, so there is no payment really for that examining. Each man who makes the copy includes the examining in his copy. In exchange for that one man gets his copying examined by the other man. They work in pairs and it goes exactly right.

53,769. The pair help to examine each other's work, and each man retains the whole sum of 11s. 7d. per 100 folios for the work which he writes?—That is it. The examining really is not accounted for in the payment, it would complicate the accounts very much, and also that is the better system, because they get accustomed to examine together, and, working in pairs, they give reciprocal facilities to each other for examination.

53,770. Is there also a rate for examining copies brought in from outside for certification?—Yes, that is 3s. 10d. per 100 folios. That represents $\frac{1}{2}$ d. a folio, less $7\frac{1}{2}$ per cent.

53,771. Are there also special payments for special work, such as plans and other work, which differs from plain copying?—Plans, of course, are quite different. We have to get skilled plan copiers. That is quite a different class of work, and is paid naturally at a much better rate. It takes a very long time. We allow those men 2s. 6d. an hour, roughly. The plans are brought in and Mr. Keeling and I together examine the plans with specimens of the plans which have been copied, to see that the charge is fair. We have acquired some knowledge of what time it ought to take a man to do a plan, and we decide if there is any question about it at all, and keep a check upon the amount from time to time.

53,772. You have told us that these rates are substantially higher than the rates prevalent for scrivenery work done outside?—Substantially higher.

53,773. Is the 1d. per folio you mentioned to be taken as the prevailing rate for outside work at present?—I have some prices here of the Solicitors Law Stationery Society.

53,774. Are these the prices paid to the writers or to the law stationer?—Prices paid to the writers. Plain copying, 8s. 4d. per 100 folios.

53,775. Does that include examination?—No; that is the unexamined copies. That is the lowest; we pay 9s. 8d. per 100 folios.

53,776. For plain copying, without examining, you pay 9s. 8d. per 100 folios, and for the outside work you mentioned the payment is 8s. 4d. per 100 folios?—Yes. Then for copying and examining law stationers outside get $1\frac{1}{2}$ d. a folio, and they pay 10s. per 100 folios as against our 11s. 7d. For copying on parchment they pay 11s. $1\frac{1}{2}$ d. per 100 folios as against our 15s. 5d.

53,777. The rates for outside work which you are citing now may be taken as a fair specimen?—Yes; we get a good many men who have worked with these stationers, and we get our information from them.

53,778. Are you acquainted with the rates paid in the Principal Probate Registry?—Yes. Typing is paid, I see, at 1d. per folio of 90 words. That does not apply to us.

53,779. You have no piece-rate for typing?—No piece-typing at all. They have, for examining, 4s. 10d. per 100 folios of 90 words.

53,780. That would correspond to 3s. 10 $\frac{1}{2}$ d. per 100 folios of 72 words?—Yes.

53,781. So that is substantially the same as yours?—I think it is practically the same.

53,782. Is their rate for plain copying 2d. per folio of 90 words?—I am afraid I cannot answer very particularly, but Mr. Keeling informs me that there are only two or three men who do the plain copying, and they are paid so much for the job. They do a certain number of folios.

53,783. In the list of the writers which you have given us, you have added a statement of the average

earnings of each writer, based on the last 10 years?—Yes.

53,784. From that list it would appear that the highest rate of earning is 217l. per annum?—Yes, that is the highest average.

53,785. And I see there are some writers who only average a little more than 100l. a year?—Yes. The 217l. applies to the ordinary writers, not the copyists of plans.

53,786. The lowest average, leaving out one writer, who had only been two months in the department, appears to be 95l. 6s.?—Yes.

53,787. What is the explanation of that much lower average?—Of course the output is not so good.

53,788. Would that be due to ill-health, or any reason of that sort?—Yes; he is a man who has had a good deal of ill-health. Of course, generally speaking, the low average may be due to ill-health, and also owing to the lesser productive power of the writer.

53,789. Can you tell us what the general average is?—These are the average earnings of the writers during the last five years: In 1909, 161l. 5s.; in 1910, 161l. 17s.; in 1911, 163l. 12s.; in 1912, 163l. 14s.; and in 1913, 156l. 6s.

53,790. The general average may be taken to be about 160l. a year?—I think so.

53,791. Can you tell us whether, as the men get on in life, their earnings diminish?—They do. Of course it depends very much on health, but, curiously enough, one of our oldest writers now is one of the most productive. They vary very much; it depends upon the length of the hours they work.

53,792. I see the writer who has been longest in the department, who entered in 1866, and is now 65 years of age, earned over 211l. on the average during the last 10 years?—Yes, he is a splendid writer.

53,793. Can you tell us the average hours worked by the writers?—It is quite impossible actually to say that, because the time of the writers is their own, and we do not know what their hours are. We do not know how late they stay.

53,794. No record is kept of the hours?—No record is kept at all, and, in fact, it being piecework, there is no question of attendance. There is only this, that the writers sign on when they come in, because we must know that we always have sufficient staff to meet any emergency that might possibly arise if we wanted to put any sudden pressure on the staff. But as far as the limit for them staying there is concerned, the superintendent of the buildings has raised objections to the writers going away too late; he does not like their staying in the building after a certain hour. He has changed the hour at various times, and I think he has fixed it now at 9.

53,795. The writers told us that they sometimes take work home?—Yes, they do. They cannot take any original documents home, but in the case of the registrar's drafts of the orders, which were referred to in the evidence of the writers as requiring considerable skill, when they have made one copy of the draft, of which they have to make perhaps five or six copies for all the parties attending before the registrar to settle the final order, they may take their own copy home, and, if they sit up and make copies of it, we have no control over their time at all.

53,796. Has that first copy been revised by the registrar?—No, but it is really for the use of solicitors or solicitor's clerks, who come before the registrar to settle the terms of the final order on both sides.

53,797. Are those five or six copies written separately or done by any duplicating process?—Separately. They must be written separately.

53,798. You mentioned the nature of the drafts from which they have to copy. It was stated by the writers who gave evidence that those drafts were sometimes of so abbreviated a nature that it required something approaching legal knowledge to be able to produce a correct copy from them. What is your experience as regards that?—I do not see anything in it requiring legal knowledge. They all have to know the recognised abbreviations which the registrars have accepted for many years.

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53,799. (*Mr. Coward.*) And everybody else?—Which everybody else knows.

53,800. (*Chairman.*) Do you mean abbreviation of words or abbreviations of formulæ?—Abbreviation of words. They must know the abbreviation of words, and probably they are all recognised abbreviations in the legal profession, but of that I do not speak with knowledge.

53,801. Such abbreviations as “exors” for “executors”?—Yes, and all kinds of abbreviations like that. They have to get accustomed to finding out. I think I may candidly say I should myself find very great difficulty in attacking the drafts, but I think there are two classes of drafts. There is one class to which I have no objection. I should like to show a specimen to the Commission. Of course these are original documents, and I cannot leave them; but any member of the Commission who would like to see them might look at them. If you will just glance your eye through that (*handing in a specimen*), that is a continuous document, and that is a draft which I do not raise any objection to. But I should like to record the fact that I do object to another kind of draft which I will show you. This is the species I am objecting to (*producing another specimen*).

53,802. (*Mr. Coward.*) What is the point about this document?—The first one is the minutes of the order, and from the minutes of the order the order has to be drawn. That document is showing the writer how he is to get the draft out for the registrar. That one is, I think, quite fair and reasonable.

53,803. Is it the minutes of a Chancery order?—Yes, they are all Chancery orders. There are no others done in that way at all. You will see there that it is plain sailing. If the instructions are obeyed, and the pencil marks followed, the writer can very well make out the order at the price that he is paid for it.

53,804. (*Chairman.*) What is the nature of the documents which you think a copyist cannot fairly be required to deal with?—Here is a specimen (*handing in the same*). You will see that there are two or three documents together.

53,805. (*Mr. Coward.*) Are these all Chancery orders?—Yes, it does not apply to any other orders than Chancery orders.

53,806. (*Chairman.*) What is the point in this document which you think is unfair?—The point in that document is that it says in pencil, “go to this,” and, again, “go to another document.” Altogether it is very confusing. A man, even if accustomed to handling those things, has to study the thing first. The principal clerk to the registrar makes out the order from the registrar’s notes; he is instructed by the registrar to know what the order is, and he makes that draft to go out to be copied. In my opinion, when there is a draft dealing with a great many different documents of a very complicated kind, and difficult to follow from the instructions, the registrar’s clerk ought to make the first draft, and then send that draft to be copied by the writer. I do not think it fair to ask the writers to make the draft out of the materials which in a case like that are handed to them.

53,807. (*Mr. Coward.*) To make a rough copy from a very rough draft?—It is not a draft; it is two or three documents, and you have to go from one thing to another.

53,808. (*Chairman.*) Are documents of the kind to which you now refer numerous?—Yes, there are a great many of them. I have once before made a representation to the senior registrar about that, and I understood that the sending of that kind of draft was going to be discontinued.

53,809. You have no information as to the average number of hours worked?—We have not really—8 to 16 hours.

53,810. We were told that the hours worked were much longer in term time than in vacation?—In vacation time the difficulty is to find enough work for them to do very often. The slackest month in the year in the last five years shows a reduction from the ordinary busiest month—July, for instance—of 68 per cent.

53,811. What do you consider a fair amount of copying for them to get through in an hour?—It de-

pends on the writer. We have thought that the average amount is 12 folios an hour.

53,812. That amount was mentioned by the writers who gave evidence?—Yes, that is the average amount.

53,813. Do you confirm that as a fair average?—We have got some men who can do 20 folios an hour, but not continuously. Some of the men can do 16 folios an hour, but that is going fast. We think 12 folios an hour is about the best average pace.

53,814. 12 folios an hour is at the rate of about 14 words a minute, is it not?—Yes, it would be.

53,815. Which, simply as writing, is not a very rapid rate of writing?—No, but then, of course, the pay includes the examining.

53,816. Is any arrangement made as regards holidays or periods of sickness?—As we pay piecework, a man cannot be given so much leave, and paid during the time of his leave, but we have an arrangement after the plan which I suggested to the Scrivenery Board and to which they agreed: during the Long Vacation the men may come there and may get a mere nothing, or nothing at all, for days together, or perhaps two or three or half a dozen folios or something like that. After working it out I came to the conclusion that the proper thing to be done was to take the whole vacation and, massing together the whole of the work for the Long Vacation, the man who came every day should get no more than the man who was away for three weeks. We adjusted the work with regard to that, so the effect of it was that the man who came every day—and I do not say there was any blame about it, but it upset the chances of the other men going away—got no more for coming, so he took his three weeks’ holiday. It made no difference on the whole vacation. Each man had the same amount of work given to him whether he took three weeks’ holiday or not. By that means we have made it practically compulsory on them to take three weeks’ holiday.

53,817. What about sickness?—In case of sickness we have an arrangement which has worked extremely well. We fixed it up many years ago. We limited it to some extent in consequence of the work, but the whole plan is this: When a man goes off sick all the other writers do a proportion of his work for him; a certain proportion is distributed over the whole staff. It is voluntary; they are not bound to come on to the arrangement, and we cannot force them to, but we find as a matter of fact that they practically all come on, although there might be one who would stand outside. The sick man gets nearly half his pay while he is away, but it does not exceed 1*l.* a week.

53,818. That is to say the work that he would have done up to the value of 1*l.* a week is, by a mutual arrangement, done by his colleagues, and the remuneration for it goes to him?—That is right.

53,819. And that works satisfactorily in times of sickness?—Excellent. It has worked splendidly. I feel that we are working something which ought to be continuously under the control of the writers themselves in justice to them, because they are doing it, and if a man is away for a very long time I ask the senior writer to go and consult the other writers, and to tell me whether they wish it to continue, and if so for how long. I feel that in any case affecting that sick provision, it being a sort of provident arrangement, voluntarily made by the writers themselves, they should always feel that it is absolutely under their control.

53,820. Does the Insurance Act apply to writers?—We have a certain number of writers to whom it applies as regards the amount—those under 160*l.*, if they do not exceed that figure, which is the limit of the Insurance Act, I think.

53,821. Are the contributions paid for the writers who earn less than 160*l.* a year?—That is really deducted just the same as any manager of a business would deduct it.

53,822. A certain deduction is made from the writer’s earnings?—Yes.

53,823. And a contribution is made by the department?—That is right.

53,824. How do you know whether a man is going to earn more or less than 160*l.* a year?—We can tell

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by his average and how his account is going. We keep a separate account for every writer.

53,825. How is it determined whether you pay a contribution in respect of a man or not?—On his past average.

53,826. On the previous year or on his average?—On the previous year.

53,827. But supposing a man is sick during a good part of the year, his earnings for that year will probably be brought below the sum of 160*l.*?—It might, but on the other hand there is the sick arrangement where the others earn money for him.

53,828. But that is only 1*l.* a week?—Yes, it might be so. We have not had a case yet; that is all I can say about it.

53,829. Have you had cases yet in which writers have received benefits under the Insurance Act?—Yes, we had one man who received benefits under the Act. We have another one for whom we have sent in an application.

53,830. It would seem that, in a case like this, where you have a staff upon piecework earning on an average exactly 160*l.* a year, and therefore varying frequently above and below that amount, there must be great difficulty in applying the Insurance Act?—I think there may be, but we drop him out if he goes beyond the limit of the Insurance Act. We keep his account and know exactly what a man is earning.

53,831. That is taking his previous years' earnings as your measure?—Yes. My assistant superintendent tells me that from day to day he can tell pretty well what a man is going to earn. I suppose there would be the same difficulty in the case of every employer of labour who was employing men on piecework. He can tell fairly well what is going to happen, having regard to the way in which a man is working.

53,832. Here is one man who earns 158*l.* 12*s.* in the course of the year, and another man who earns 160*l.* 4*s.* It must be very difficult to know in the course of a year whether to pay contributions for them or not?—Yes, of course, it is.

53,833. How do you arrange that in practice?—The Act, I think, says: "If they are earning at the rate of 160*l.* a year," or some such words.

53,834. How do you interpret that in practice?—We watch the man's account, and if he appears to be doing more than that he would come out. It would always be adjustable, I imagine. It would not be right for us not to try to apply the Act.

53,835. No. I am only endeavouring to ascertain how you apply it, as a matter of fact?—We keep a man under the Act as far as we can, and whenever we have the opportunity. We see how his account is going on, and watch it, and do everything we possibly can to keep him under the operation of the Act.

53,836. Do you consider that the present system of payment by piecework is the right system; and, with reference to that question, have you considered the advantages of it as compared with a system of payment by salary?—Yes; I have often considered the point as to the relative advantages of payment by salary and piecework, but for scrivenery work, it appears to me, that by far the most economical and fairest way of payment is by piecework. When you have salaried clerks, it is not a question of the amount of the work, but the value of the work very often, which regulates the service of the man. It is always work which varies in the time it might take. You could not pay a clerk engaged in issuing writs by the number of writs, or a man engaged in signing judgments by the number of judgments, because they vary enormously in the amount of time they would take. Sometimes half a dozen judgments might be very simple, but one judgment might take a considerable time to settle; so to all those classes of official work piecework is quite inapplicable. After all, the whole thing with regard to scrivenery work is the amount of output. What you have to provide for is the amount of output. What you have to get the men to do is that amount, and it all rests on the amount of work. More than that; you have no guarantee that if you pay a salary the man would turn out the amount of work, nor could you in any way check every hour of

the time of a man to see that he did turn out the right amount of work.

53,837. Would not it be possible to have a system under which you paid fixed wages but required a certain amount of work to be performed. If a man was slow he would have to stop longer hours, and if quick he would get away sooner; but in each case he would perform a certain standard of work?—With the varying pressure it would be very inconvenient. If we have a great rush at one time of the year, and a very slack time at another, we can call upon the men for their own profit to meet the pressure and do extra work to meet it, and they are paid for it.

53,838. In fact the piecework system is much more flexible for a varying flow of work?—Yes.

53,839. Do you consider that a system of fixed wages would involve increased expenditure?—A very large increase of expenditure, I think, would be required. If they were paid by salary we should want a great many more writers, I am quite sure, to meet the pressure of work. I have some figures here of the slackest and busiest months during a five years' period. In September 1911, we had 18,300 folios of examining and 34,950 folios of copying; whereas, in July 1910, as against 18,300 folios of examining we had 80,800 folios.

53,840. More than four times as much?—Yes, and as against the 34,950 folios of copying in September 1911, in July 1910 we had 102,100 folios.

53,841. That is three times as much?—Yes. That is how it runs. If you were to manage a scrivenery business with economy, and paid by salary, you would want to take on about twice as many men, if not more than that, at certain particular times in the year, whom you did not want at other times in the year.

53,842. It would not be possible to adjust that by giving leave at the slack period, and having your whole staff in operation at the busy period?—A slack period would amount to about one-third of the year, and the other months vary considerably from month to month. The busy time are when the Courts are sitting mostly, and the slack times when the Courts are not sitting.

53,843. The writers at present are not pensionable? No, they are not pensionable.

53,844. Are they entitled to a gratuity on retirement?—They are entitled to a gratuity on retirement of one week's pay for every year's service. The way that is applied, and I have no doubt necessarily applied by the authorities under the statute, is, I think, really a very, very great injustice.

53,845. In what respect?—The last three years of a man's life are invariably, and without any exception, taken as the test of the amount of his earnings; it is taken as the average of his earnings on which the gratuity is fixed. The last three years of a man's life is the time when he does perhaps sometimes half, and sometimes not more than one-third of the work he has been accustomed to do for 40 years before.

53,846. The figures which you give in your list of writers do not appear in any very marked way to confirm the view that a man's power of earning declines largely as he grows old?—But he has not got nearly to his last three years. The point is that there being no pension, we can never get rid of him. We cannot say to a writer when he has got feeble: "You must go," for the simple reason that it means that he must go into the workhouse.

53,847. The figures you give are based on a ten years' average, and therefore it is not perhaps a satisfactory indication of the last three years?—No.

53,848. But taking the basis which you give, I see that the four men with the longest service, whose ages are 65, 69, 63, and 62, have earned respectively 211*l.* 183*l.*, 155*l.*, and 200*l.*, amounts which are, except in one case, considerably above the average earnings of the writers?—Yes, they are first class men.

53,849. That would not seem completely to agree with the view that during the later years of his service a man's earning powers go off largely?—But the highest age you have there is 69.

53,850. That is the oldest man at present on the staff?—We have had them on the staff until they were over 80. We had one man who had 66 years' service, and he retired because he died.

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53,851. Have any man received gratuities in the last two or three years?—Yes.

53,852. Can you tell us their ages?—I have not the figures with regard to the particular men, but I should like to send you the figures.

53,853. Will you give us a note of the men who have received gratuities during the last five years, giving the average earnings of the last three years on which they received their gratuity, and making a comparison between that amount and their earning power in the previous period of their service?—Yes, I should like to do that. I might give the average earnings for the whole of their service compared with the last three years.*

53,854. What do you suggest is a fairer system than payment upon the last three years' average?—That the man should be paid on the average of his whole service. The average of the last three years could only be taken as showing that it is a fair test of what a man's average earnings have been. In the case of the writers, I might mention there are not only those who retire from age, but those who retire from illness. We have men who get ill and gradually get worse, who come up and do their work and go on at great difficulty to themselves, but when they get beyond that and get so bad that they cannot come any longer we try to get them a gratuity. They have perhaps gone on working for two years and earned very little, but their gratuity is counted on the last three years which does not in any way represent the real average earnings of the men.

53,855. In the evidence they gave before us, the writers who appeared made certain statements to the effect that their position as regards pension had been prejudiced by what they considered to be a failure on the part of the heads of departments to obtain Civil Service certificates for them in the year 1871. Are you familiar with the circumstances to which they refer?—I am absolutely familiar with those circumstances, because it so happened that I was in the office where this happened. It really occurred in the Record and Writ Office of the old Court of Chancery, in which office I was. They speak about the Civil Service Commission having in 1871 sent in to tell the clerks there that if they would undergo an examination they would get a certificate and be entitled to pension. It is quite true that that was done, and it was really intended for permanent officials, but—I do not know whether it was by mistake or otherwise—it is a fact that it was sent to the writers, who were being paid piecework, in the same building with us who were on the permanent establishment. I suppose it was a mistake, but it was sent. We on the permanent establishment refused to go in for the examination.

53,856. Did you receive Civil Service certificates?—No, never. We refused them.

53,857. Did you become pensionable?—We refused their suggestion.

53,858. That refusal did not interfere with your claims to pension?—No, because we were secure under the arrangement under which we were paid. We were entitled to pensions paid by the Suitors' Fee Fund.

53,859. So the questions of pensionability did not depend in your case on obtaining a Civil Service certificate?—No, we were offered a certificate without examination, but we declined it because we thought it might affect the time of calculating our pension, as we claimed to count it from appointment. That only applied to the clerks. As regards the writers, the same offer was made to them, though they never were on the permanent establishment, and never ought to have received this notice at all. That is how the mistake arose, and a misapprehension was created in their minds.

53,860. So that the question of their being pensionable or not was not determined and was not intended to be determined by the question of whether they were to obtain the certificates or not?—No, it was not.

53,861. The writers put forward a claim or request that they should be made pensionable. Will you give us your views on that question?—I have very strong views on that question. I think that something is

wanted, and that the matter should be looked at fairly—I mean seriously entertained. If you take the scriveners and the official writers or Writing Clerks (as they are called in Ireland) in Ireland and Scotland and in England, they are absolutely permanent in every respect, except that they are paid piecework instead of being paid by salary. The fact is that they are paid piecework instead of salary because it is to the advantage of the State that they should be so paid from a pecuniary point of view.

53,862. What is your suggestion as to what should be done?—I myself think that they should be regarded as permanent. I know that possibly some legislation might be required. There has never been any. I can speak with knowledge with regard to Ireland and Scotland. I was on a departmental committee in Ireland and I went to assist the Committee on Scrivenery in Scotland at Edinburgh. Everywhere it is the same, and the same sense of grievance is felt by a very large body of public servants. In my opinion they ought to be brought within the Pensions Act by some means, and it would be only fair to do so. I would like to mention that the departmental committee, of which I was a member in Dublin, recommended that the writers should be made pensionable.

53,863. When was that?—I cannot give the exact date, but about 14 or 15 years ago. I drew up the report myself, because we were divided, but not on that point. The chairman agreed on that point. That went to the Treasury. The Scottish Report was in December 1913. In January 1913 I went to Edinburgh, at the request of the Scottish Office, to give some assistance to the Royal Commission on Scrivenery sitting there. I represented to the Commission my views with regard to the question of permanency, and the Royal Commission recommended that writers should be made pensionable. My point is that it is very important, particularly from the point of view of our writers in England. The result of the work which is done in the Scrivenery Department in England is that the actual work produces a profit of 2,000% a year or thereabouts, and the work which the writers do for the Treasury without payment is 6,000% worth. That all comes within this scheme for the different departments—all kinds of official work.

53,864. Does the question of whether there is profit or not bear on the question of whether they should be made pensionable?—I do not think it does, but I think it throws a sidelight on the desirability of it. The point is, that you have a large and separate class. The scriveners are a separate class, but have never been acknowledged as a class, and I think the time has come when they ought to be acknowledged as a separate class. There is no doubt that they are permanent, and in my opinion it is a very great hardship that they are not allowed pensions.

53,865. Has the question of a contributory pension system been considered?—We have had it suggested that there should be a contributory system. I went into the matter of a contributory pension system with one of the leading insurance offices, too, and the offer by the insurance company was better than the one offered by a contributory scheme.

53,866. What was the nature of the scheme that was proposed by the insurance office?—Really, I cannot remember. I went into the whole matter at the time, and drew up documents about it. I could put my hand on the papers no doubt, but I cannot say now. I did not know that we were going into the question of a contributory scheme.

53,867. Was that scheme ever discussed with the Treasury?—I do not know. There was a scheme put forward by the Treasury, and I remember I went into the scheme and the figures with the actuary of one of the insurance offices, because we wanted to test what it was. It was not anything better than the men could do for their own payments if they insured.

53,868. The suggestion made by the Treasury, I think, was that a fund should be formed by deductions from the men's earnings, to which should be added any gratuities to which they would be entitled under the present law, and that those two contributions together should form a pension fund. Has any serious attempt

* *Vide* Appendix CI.

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been made to formulate a scheme on some such basis as that?—No.

53,869. Do you think it might be practicable to do something in that direction?—I can only say with regard to that that nothing further was done upon it. The matter was gone into at that time. The writers, of course, saw it and knew what was being offered, and everything.

53,870. Can you say why nothing further was done?—It was not really done, because the offers that we got, I think, from two insurance offices were on better terms. The terms as to the deductions they would have had to pay by way of premiums would have been better than the terms of deduction in the scheme submitted to us by the Treasury; I say "submitted," but I suppose it was done at our request largely.

53,871. Why was not the matter pursued? The Treasury, no doubt, could have no objection to making arrangements with an insurance office for a contributory scheme?—Of course, if the Treasury would let us, it would be even better. If we were to know that in future they would be pensionable in that way, they would have to be paid at a reduced rate, and I think it might be applied to the staff, because we could adopt it with regard to new hands. What I think is the great thing now with the great body of the men—and it does not apply only to us, but to the Probate and other Scrivenery Departments—is, that they are a separate body, are not paid too highly, and they do a great deal of work, and most of it is profitable work.

53,872. Do you think that the hope of being made pensionable without a contribution was the main obstacle to the adoption of any contributory scheme?—I do not think so. I never heard that.

53,873. At present typewriting is hardly used at all in the Scrivenery Department?—Very little typewriting is done.

53,874. Typewriting is more rapid, and, therefore, a good deal cheaper than handwriting, is it not?—Yes, it is cheaper than handwriting, no doubt.

53,875. From the evidence we have had about the Principal Probate Registry, it appears that the cost of typewriting is about half that of copying?—I suppose it would be that.

53,876. Is there any reason why typewriting should not be used for a large part of the work that at present is done in handwriting?—There is a very great reluctance to use typewriting in legal documents. We have had one case where the whole front of an affidavit faded out completely, and we could not identify it, and that was an original document. There is great distrust of the permanency of typewriting inks. The judges are very much opposed to typewriting; they never like it.

53,877. Are you aware that in the Principal Probate Registry, after careful inquiry, they use typewriting for the registered copies of wills?—Yes, I have heard that they do so, and if it is a permanent ink, I do not see why it should not be used.

53,878. That system has been in force now for more than 20 years, and we were told in evidence that there were no signs of fading or any other drawbacks from the use of typewriting for that purpose. Have you any experience that goes against that?—No, I have no experience against it; nor do I myself personally desire to throw any difficulties in the way of typewriting; but I am bound to say that it is very uncongenial to our judges; they do not like it.

53,879. You spoke of drafts of orders being produced in five or six copies for distribution to the different parties for consideration by them?—Yes.

53,880. Documents of that kind would not be the final documents for permanent record?—That is so.

53,881. Can you conceive any objection to typewriting being used for that purpose?—No, I do not see that there is any.

53,882. Typewriting offers, does it not, special facilities for the multiplication of copies within a reasonable number?—Yes, up to a certain number; but for any documents such as office copies or originals, we do not allow any carbon copies to be used. We have a particular order that we are not to have any.

53,883. But there are other methods of copying by typewriting besides using carbon copies?—There is the

litho typing, but that does not pay unless there is a large number.

53,884. There are also other methods for producing a smaller number of copies?—Only by litho printing or typing. It does not pay to have most of these reproductive processes where only the first copies are wanted unless you have a good number. The registrar's drafts are the only things we have duplicated at all. There may be five copies, but in most cases only two, three, or four copies.

53,885. At present for the three or four copies you have to pay the ordinary copying rate for each copy?—Yes.

53,886. Is not that an extremely extravagant system?—Of course, if they could be produced by typewriting, I do not see any reason why they should not be produced by duplicating, because they are only wanted for appointments before the registrars.

53,887. Do you see any difficulty, as regards staff or otherwise, in introducing a larger use of typewriting?—Of course we have not accommodation. We have on our establishment now, and latterly have been taking on, writers who could do typewriting as well if required, so we have several men capable of doing typewriting.

53,888. It would therefore be possible gradually to extend the use of typewriting?—Yes, and we do use it for all correspondence and a good many documents which are not permanent documents. As regards office copies of documents, and as regards original documents, there is a strong feeling against it. We will not have our judgments typed. We had directions that no judgments or copies of judgments were to be typewritten.

53,889. From whom were those directions received?—They came to us from our Committee of Control. Those are very special documents, of course.

53,890. If it were found practicable to extend typewriting, would you be in favour of doing it by the employment of women typists or by the employment of men typists?—There is a good deal of our work that there would be no objection to having women to type; but some of our work is work of a criminal kind, and is quite unfit for any woman to type.

53,891. Apart from that question of criminal work, you do not see any reason against the larger employment of women as typists?—No. In fact we have a woman typist at present, and, of course, would put another typist on directly if wanted, whenever we have the demand. We are merely law stationers of the Court. It is not for us to say whether a thing should be typewritten or handwritten; we have to carry out our instructions. We are not the people to decide; it must be the department who employs us; figuratively, it is for the department who employs us to tell us what they want. Now we have had an instruction that we are on no account to have duplicate typewritten copies of anything sent for use in Chancery, and none in violet ink but only in black.

53,892. Are there any other points you wish to bring before the Commission in connection with the Scrivenery Department?—No, I have nothing more I wish to add.

53,893. (*Sir John Kempe.*) We had in the course of the evidence a statement that there is a certain amount of work done by the third class clerks of the Supreme Court which was purely mechanical. Do you know what that work is? Is it a class of work of the nature of copying, or what is that work? Is it the class of work that might be done by copying clerks or by the Scrivenery Department?—I do not think it has any relation to copying at all. I do not know any official work that has any relation to copying.

53,894. The suggestion is that the work is so purely mechanical that you might have a separate class below the third class—between the scriveners and the third class—who would do this purely mechanical work. You do not know what that work would be?—I do not know quite what would be referred to by that. I do not see any opening for an intermediary class between the third class clerks and the scriveners, because our scriveners, or a great many of them, earn as much as a third class clerk.

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53,895. This had reference to a class more like what we call assistants. They would be precluded from rising into the upper class, because they are doing mechanical work. The idea was that third class clerks were wasted by doing purely mechanical work. Would it be possible to join the Scrivenery Department with this suggested new class? It seems to me not to be a good plan to create another class still, because it has always failed when you create a class apart like that to take over work hitherto done by the class above it. You cannot tell whether it would be possible to do that?—I know all the work that is done, I think, in all the offices of the courts, more or less; but I cannot think of any mechanical work in a department except that of the third class clerks to the registrars, and theirs is not really mechanical work either. I do not know of any work done that is mechanical.

53,896. It is not part of the question relating to the Scrivenery Department, but you would be against creating a fresh class in between the scriveners and the third class?—Yes. I do not see what possible benefit could be derived from so doing.

53,897. There are some of the third class doing a certain amount of less intellectual work?—Yes, but not mechanical work. I suppose everyone has to do some work—writing down what they have been drafting, and so on, or entering documents and making other entries—which might be called mechanical; but that is only a small part of the work which they have to do.

53,898. The Scrivenery Department is not doing entering or keeping register-books and that sort of thing, and you could not combine that work with the Scrivenery Department?—No. We do not keep books except cause-books, where all copies are entered. When a document comes in and the clerk sees it is right, he enters it in the cause-book. If he takes an appearance, he makes an entry in the cause-book. That is not mechanical in this sense, because that cause-book is the evidence of the existence of that thing; it is always evidence against the man who takes it in, and he is responsible for what is entered in the book, and a great deal turns on it in subsequent proceedings; so you could not class it as mechanical.

53,899. You could not create a new class without it having work which might give it a sort of claim to go up into the third class?—No; I do not think there is anything that a man does as a writer which qualifies him to take the place of any of the third class. We have got some of them appointed, because they have gone to the third class to render assistance in case of illness, as in the one place I mentioned in the Chancery Registrars' Office, where he was able to make himself so useful, and he was doing the work so well that he got the post. I should like to see more chance thrown open of drafting more writers over like that, as I have already said.

53,900. (*Miss Haldane.*) It has already been suggested to us that the Scrivenery Department is one in which women might be largely employed. I gather that you agree with that evidence?—I agree to this extent: We have every facility for it, and have already begun it; we have started with our one woman typist, and are always prepared and ready to extend the practice of having more women typists in any way we can, but the difficulty we find is this: We are only a department who receive instructions from other departments, and have to carry them out. When we get the chance of using the typewriter we do so, but we do not find it impossible in the case of the judges or other departments.

53,901. But supposing it was agreed that it was a desirable system you would think it a good plan to employ women largely both for copying and for typing?—I do not see any reason at all why we should not have women typists employed whenever we have a demand for typing work and require them, with this exception, that we already have three or four men typists who are never employed.

53,902. You have men typists?—Yes, hardly ever employed.

53,903. Working piecework?—Yes; they are working piecework at writing, and they are never employed on typewriting. We do not get any demand for it.

53,904. Perhaps I do not make myself clear. I was talking both of copying and typing. Why should not women do both kinds of work?—I do not say it would be an impossible thing, but we should have to make quite different arrangements in our working rooms and that sort of thing. We should have to have a room for the women.

53,905. Supposing you had suitable housing accommodation, would you think it possible to have a complete office with women doing this particular work?—There is no reason why it should not be so.

53,906. I gather from you that certain work could be more suitably done by men; but excluding all that, there is work in regard to companies (winding up), and so on, which could be done by women?—There is no reason why women typists should not be employed if there was a demand for typing. They would have to apply; they would have to send in their applications the same way as other writers showing their qualifications.

53,907. Would not you employ them on Civil Service lines and get over the objection as to the pension, which, I gather, is a serious objection in the present office?—I do not know what the Civil Service lines are for women.

53,908. For women typists?—I do not see at present what advantage we should gain by having women. We have men and we strain them and push them on the work, and they take it, and they are paid for the amount of work that they do.

53,909. But I gather that you are not satisfied with the present conditions of employment of the men. You mentioned that, supposing they stopped working when they were beyond doing their proper work, they had only the workhouse to look forward to?—That is so. That is most unsatisfactory, and a system which, I think, ought to be altered.

53,910. I suggest that you should rather have a regular office composed of women to do this particular work just as is done in the Post Office Savings Bank Department?—It might be possible, but then we have a very full staff of writers, and we should have to keep them.

53,911. Yes, that is a matter of the present. Have you had any difficulty owing to the war? Have you had to make any special arrangements in regard to it?—The same as we have everywhere. A good many of our staff of writers have gone out.

53,912. Have you thought of employing women in their places lately?—No, we have no accommodation for them at present.

53,913. Even for piecework?—I should not like to have the women mixed with the men in the rooms for the scrivenery work. We ought to have separate arrangements for the women with regard to writing rooms; they ought to be in separate rooms.

53,914. Of course this difficulty could be got over?—Possibly.

53,915. (*Chairman.*) In discussing the question of a salaried staff of male writers, you mention that difficulty would arise from the difference in the flow of work at different times of the year?—Yes, the fluctuation of the work.

53,916. That same difficulty would arise, would it not, in the case of a salaried staff of women writers or typists?—Exactly the same.

53,917. (*Mr. Coward.*) I have already said to one or two of the other witnesses that personally we do employ women typists who are in the position of Waterlows, that is to say, regular law stationers, with most excellent results. However, that is by the way. Now a question or two with regard to this order which you produced: You produced it as showing the difficulty that your scriveners have?—Yes.

53,918. It was not produced with regard to the character or mode of drawing up the order or anything of that kind?—No.

53,919. Can you tell me whose handwriting this pencil note is in?—Of course, I do not know the handwriting. I should not like to say unless I knew the handwriting; but it is one of the registrars, I think.

53,920. This order is one of the simplest orders, is it not? You have looked at it, I suppose?—No, I

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have not actually, seriously, looked at it. I could follow you if I looked at it.

53,921. I think you will find that the order is of the very simplest kind?—That is so.

53,922. There was a fund in court, and the tenant for life died, and the fund is divisible, subject to her life interest, amongst her children. This is the order that directs its distribution?—Yes.

53,923. So that it was necessary to take out a summons before the judge. It goes before the master, and then before the judge; the judge makes the order, and I understand it goes to the registrar to have the order drawn up. Before it goes to the registrar the master endorses upon it the evidence which has been read upon the hearing of the summons, and this is the evidence put on the back, signed by Master Fox. Then it goes to the registrar's office to have the order drawn up?—Yes.

53,924. What goes before the registrar is this summons that has been issued by the applicant's solicitors?—Yes, of course, the order would be drawn up on that.

53,925. The summons goes to the registrar with these notes of the master as to what documents have been read upon the hearing of the summons?—Yes.

53,926. From that an order has to be prepared?—Yes.

53,927. The ordinary course would be to prepare a draft order?—Yes.

53,928. Instead of doing that, somebody in the registrar's office, who we do not know, has altered this summons in a way that is a disgrace to any office, is it not?—I do not want to express an opinion of that kind at all.

53,929. I ask you really to look at that document and tell us whether that is not a disgrace to any office?—I do not wish to express an opinion with regard to any fault of theirs. It is a system which has been employed, and is carried out, and a good deal of it is done. All I wished to hand this document in for was this: I did not know whose document it was, or where it came from, but I meant to produce it as a type which I did not think it was fair to ask our scribes to make a draft from.

53,930. I quite appreciate the ground on which you produce it, but does not that show the way in which the work is done in some of these offices?—No, I do not think it shows anything that is any reflection upon any office.

53,931. Do not you really?—No.

53,932. Will you kindly look at that summons again. It is a summons, is it not?—Yes; I know what it is exactly.

53,933. It has been altered into an order in pencil?—I do not see any objection to that one document.

53,934. If I had that done in my office, that man would go there and then; it is a disgrace to the office?—I do not think I can follow that at all. I do not see that there is a matter of disgrace attaching to it at all. The document comes in with the endorsement upon it; the registrar puts his writing upon it to show how the draft on which he is going to settle the order is to be made. The registrar knows when he makes these alterations that what will come back to him with this document which is altered will be the draft, which he will then settle, and it will be in consecutive form. I see no objection to that, because he is not sending anything out which will become operative, or anything of the sort. It will come back to him for re-consideration, and, officially, I see no objection whatever to that course being applied.

53,935. I am very sorry to hear it?—I will say this, that I do not think when documents come out like that it is fair to the writers to ask them to make the drafts. That is the only point I am on.

53,936. It is not the point that I am on. There are 28 men other than the registrars in the Registrars' Office, and I suppose one of their duties—the primary duty—is to prepare the orders and draft the orders?—Yes.

53,937. And anybody who knew anything about the work and what was required would easily draft an order from that summons; there is no trouble whatever about it. It is the simplest possible order and that is the way

it is done. Here we know something about business and the way things are done, and all I can say is, that it is incredible. I will pass from that to another question. You were good enough, when you were examined on the 17th March, to refer to the judgments drawn up in the Central Office, and you were asked: "Do you consider the work relating to judgments the most difficult part of the work of your department?"—Yes, that and "executions. There again there are a whole number of decisions affecting writs of execution." Now I have taken without selection at all a dozen judgments that were drawn up in the Central Office consecutively. I would like you to look at these and see whether you think—you will find that most, if not all, were drawn up in my office—there is the slightest bit of difficulty in any one (*handing documents to witness*)?—These are all judgments which are ordinary judgments. Some of them, of course, are only default judgments, which I think I mentioned as being simple.

53,938. And there is not the slightest difficulty about them. One is about recovering the possession of land, and one in which the costs were taxed at 4,000*l.* odd?—There is nothing out of the way.

53,939. They are all judgments of entirely different kinds?—They are. But judgments in default of appearance are not merely handed in signed and sealed, and handed back to the solicitors.

53,940. The whole point of it is that I selected 12 judgments consecutively that have been obtained in my office, and you say there is not a bit of difficulty in them?—There are one or two judgments that require looking at very carefully and examining with the original documents. Do you know the number of judgments that were signed in the year?

53,941. Yes?—Your 12, which you have taken out, does not represent very much out of 20,000.

53,942. No, I only took out a dozen?—And they happen to be rather light ones.

53,943. I do not know whether they are light ones. You do not call *Seale v. Turner* a light one, do you? However, there it is?—In the case of the default judgments (which are the simple ones) the man has first of all to see that you are entitled to default judgment, and he has to see that the writ has been served.

53,944. There is no trouble about doing that?—You are speaking as if it was an automatic matter, and I demur to your doing that.

53,945. I do not say it is quite automatic, but it is very, very near it?—The clerk who enters a judgment of the simplest kind that you have there—a judgment in default—has first of all to see that there is default, and he has to see—

53,946. That there is not an appearance entered?—He has to find that, and then he has to see that the man was duly and properly served according to the proper method of service.

53,947. Certainly.—That is not automatic. You may say it is the simplest kind.

53,948. But you are paying gentlemen who do this 800*l.* a year?—Nothing of the sort. Some of them are paid 200*l.*, 300*l.*, or 400*l.* a year.

53,949. That is the lowest?—But that is not the only work they have to do. They have very much more important judgments than any you have there.

53,950. I am quite right in what I said, that the first class clerks get salaries up to 800*l.* a year?—The first class clerks get the highest salaries in the office, and the ordinary scale of the first class is to 600*l.*

53,951. We have the scale of salaries here?—Yes; 600*l.* is the highest salary. Those with 700*l.* remain under certain rights they had prior to the Judicature Acts, and some of them remain still.

53,952. I do not know whether it was you who spoke about the correspondence in the office?—I do not remember it.

53,953. (*Mr. Graham Wallas.*) I want to ask you a question on this draft order. Is not this endorsed in pencil, apparently by the registrar: "Copy this as best you can; I cannot make it out"?—No, I do not think that could have been written by the registrar.

53,954. Will you look at it, and see whether it is not followed, in the same handwriting, by the registrar's

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name with "R" after it, apparently meaning "Registrar" (*handing draft order to the witness*)?—It might have been. After looking at it, I do not think any notice should be taken of a little pencil note like that; it is a mere nothing and of no consequence.

53,955. I ask, is there that endorsement on it?—If I had written or made a badly-written or cut-about note, I might have sent it down to Mr. Keeling in the Scrivenery Department, and said: "Let the writer do this; I do not know whether he will be able to read it," or something like that. It was a little observation passing privately. I do not think these documents should be used for any private ends which are extraneous to them, unless for some good purpose. I merely brought them as specimens of the documents which I do not think it was quite fair for my writers to have to copy.

53,956. In that case the scrivener would have, in fact, to interpret the document which bears that endorsement?—He could follow it. They are so highly skilled about these things that a writer could do it.

53,957. In telling us about your rate of payment to the scriveners, did you tell us about the payment for the process called "counting folios"?—No.

53,958. What is the rate of payment for that?—We have very little of that to do. The writer who copies a document is not paid anything for counting it. But we have to count. One of the departments, I think, sends us a certain amount of counting to do. I think the Criminal Appeal Department send us documents to verify the length of them, on which they are paying on their own account for printing; but their account has nothing to do with us.

53,959. It is work of some importance, because on it the ultimate payment by the Treasury is based?—Yes; we only pay the 1s. 11d.

53,960. But the question of how many folios there are in a document is a question on which the ultimate payment depends?—No doubt the counting is to check that.

53,961. At what rate is that paid?—1s. 11d. per 100 folios.

53,962. Is it not the case that that work is, in fact, reserved for scriveners who can do nothing else?—We always give it to such a one if there is anybody like that. Sometimes our writers suffer from writer's cramp and they have a difficulty in writing, and that is one of the things which we are able to give to men like that if they cannot do writing well.

53,963. Do you find it entirely satisfactory that a gentleman in that condition should make that examination on which the actual payment by the Treasury depends?—We should not give it to a man who could not do it, but a man might not be able to write and yet might be perfectly able to count.

53,964. At present one-quarter of your 43 scriveners—that is to say 10 out of 43—are between 60 and 70 years of age?—That is so.

53,965. Therefore, in the course of the next 10 years the difficulty of age, if nobody is dismissed, will be likely to increase?—Probably.

53,966. In appointing scriveners, do you give any preference to the sons or the relatives of scriveners or of officials in the courts in any way?—No. As I described when I was speaking about how they were appointed, they are entirely appointed at an early age—if we have a healthy and good man—on the quality of his specimens of writing. That is the determining factor. No other influence than that is allowed to interfere in the selection of writers at all. I may say it is not infrequent that a certain amount of pressure is brought to bear to get certain particular people on, but absolutely when the specimens are chosen and the writers are chosen, the Board do not know who they are; they might see their names, but they would mean nothing to them.

53,967. We had it in evidence the other day that in the Central Office certain clerks received extra payment for letters of request to foreign countries. Do you know of that?—Yes, one of them is a process-server to the courts—I forget what is the amount he gets, but I think it is an allowance of 20l. He is appointed as process-server to the English Court for the purpose of

serving foreign process, which comes over here to be served in England. There had to be a process-server appointed under certain rules passed by the Rule Committee.

53,968. Is there more than one who gets paid under that head?—Yes, an assistant process-server—because there must always be one there—gets 15l., I think, a year. There are two clerks who are given that payment in addition to their ordinary pay.

53,969. Do you know where this appears in the Estimates at all. I could not find any trace in the Estimates of these payments?—I do not know. It is the paymaster's business, but I know they are down there. There is no arrangement for payment of any salary or anything of that sort that is not in the Estimates.

53,970. Is one of the gentlemen who receives this extra payment in your special section of the office?—Yes.

53,971. What is his name?—My son is one of the two, and the other is named Willson, who is at present in the Army. Both had been previously engaged for years on that class of work.

53,972. Then Mr. F. R. Stringer is in your department?—Yes.

53,973. (*Mr. Boutwood.*) You spoke of some plan that you had years ago for "nursing" scriveners whom you appointed to be clerks?—I called it that, you understand what I mean—nursing them during a period when there was a discrepancy between the salaries and the earnings.

53,974. Why was that dropped? Was any reason given?—No. We have had several letters about it. The Scrivenery Board wrote to the Lord Chancellor about it, and on several occasions we have written to the Lord Chancellor with regard to it to ask that that rule might be relaxed, but it is not sanctioned by the Treasury—that is all.

53,975. And you have not any reason for the rule?—We have not any reason behind it. We have not been informed of the reason.

53,976. Something was said about an intermediate class between the scriveners and the third class. I followed your reply to that, but another suggestion has been made to the Commission that the third class clerks themselves should be separated as a permanently subordinate class and recruited separately?—You mean that the third class clerks might be divided?

53,977. No, that the first and second class should be continued to be appointed as they are now, or in some equivalent way, but that the third class, in view of the character of its work, should be treated and recruited separately as a permanently subordinate class with only exceptional promotion?—I should very much demur to anything of that kind.

53,978. Why?—I do not think it would work. In the first place the moment the third class men come in we shift them about, but we try to train them always to do the more important duties as well and to begin to learn them. We do everything that we can to qualify them for taking up the second class duties when their time comes for that. Some of the men do very well. If you were to have a system by which the second class would be recruited from the outside over the top of the third class, that would practically mean that the third class would be a separate class, not having any promotion. In that case it would be hardly fair—in fact, I do not think it would work well—to utilise the services of the third class on work other than work which would really be third class work, and would always be third class work. I think myself that the whole system of appointing a man to rise up to 200l. and there to stop is a very bad one.

53,979. And that proposal would intensify the drawbacks of the present plan, whatever they are?—I think it would, and make things much worse. A man in the third class, who perhaps has waited (as they do sometimes in that class) for promotion for 12 or 14 years, when his turn came for promotion, would never be secure that he would get his promotion even if he knew perfectly well he would get it on his merits, because the one having the patronage might put somebody into the second class over his head and he would be postponed.

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53,980. I gather that you think it would be a bad thing to have in an office a grade of men who all their lives were confined to the lowest class of clerical work, with practically no prospect in front of them but that?—I do not say that as a general rule to be laid down, but as applied to our department I think it would be a very bad thing indeed, because you have no lower class of work distinct from the upper class of work; it is all mixed and intermingled inextricably. That being so, you could not have a third class if you had not got a third class of work for the third class men without promotion. If you had, it might be a very good plan, but with us I think it is not workable.

53,981. Then to come to typewriting, do you happen to know whether it is true that typewritten documents are much more easily manipulated and altered?—We have had enormous proofs of that. If you find anything wrong you can take it out. That is one of the great reasons why typewriting is objected to in the law offices; it is so important to us in matters of evidence that it should be something permanent that we are dealing with, which could not be altered without our knowing it. But they can take out almost any typed word and type another in, and you cannot detect it; there is nothing to show you it has been altered.

53,982. (*Mr. Coward.*) Speaking generally, to-day all wills are typewritten?—I know, but they are kept in a safe place, and they are in your custody.

53,983. I mean original wills?—But they are kept in somebody's possession, and no one is allowed to see them without somebody sitting and watching.

53,984. I say that wills before they are proved at all, when signed by the testators, are typewritten?—Yes, but they are always kept in somebody's custody who is responsible for them. They would not be allowed to be in the custody of anybody who is alone.

53,985. They are kept in exactly the same way as wills written in handwriting are?—But a will there is not the same objection to, because it is a sort of document which is kept absolutely under lock and key, and nobody could get at it to alter it; but many of the documents dealt with in the courts pass into the hands of others, and go about. We have had many specimens of that. We have had great difficulty with regard to alterations.

53,986. You could stamp each page?—We do stamp each page, but they can take out a word and type in another word, and you cannot detect it. They have some means of doing it; it is astonishing; I have seen several instances of it. That is one of the reasons against our using typewriting. As a Scrivenery Department we do not object to using anything wanted by the people who employ us—let me make that clear. I am

only expressing the reasons why, generally amongst judges and those responsible in the law, they do not like to work on office copies of documents that are typewritten; they do not trust them. They may be taken away as office copies and altered.

53,987. Did you ever know such a thing done?—No, but we know what we are guarding against. If it is not a permanent thing we are not perfectly certain it is right. We know it can be done, because we have had it done for our own purposes, and it can be beautifully done.

53,988. (*Mr. Boutwood.*) From what you said about a contributory pension scheme, I gather, though you would like to see some kind of pension scheme started for the future, you thought the present problem ought to be dealt with independently—that is, the problem of the existing men?—Yes, I think the contributory scheme is really not much more than telling every man that he ought to put by. A contributory scheme means that he would put by and pay for his insurance, whatever it was that was offered to him, and probably what he would have to put by would be to carry out the idea of deferred pay being the foundation of pensions.

53,989. But a contributory scheme would be no good for your scrivener of 69; you want some other plan to deal with him?—Yes, we ought to have pensions, no doubt.

53,990. On the whole you are inclined to make them pensionable in the ordinary way?—Yes, and I think there is reason for it, and it is this: I do not know if it applies to other scrivenery departments, but it does to a good many. It is a remunerative department, and after all the men are not overpaid; they have to work very hard for their pay, and it would be very hard to take a contribution out of that and to make the pension dependable only on the contributions. After all the men do earn an absolutely net profit. Our department in the building earns a net profit of 2,000*l.* a year.

53,991. (*Chairman.*) You bring forward again that argument as to the department being a remunerative one. Would you apply that argument in the reverse direction and say that in unremunerative departments men should not be pensionable?—No, I would not. I put it plainly on the ground of public policy, that where men technically are not permanent, but in reality when over 50 years' past service can be shown by them in England, Scotland, and Ireland, they are permanent officials and have worked officially, and are never known to be anything else but permanent.

53,992. But has the fact of the department being remunerative or unremunerative any bearing whatever on the question whether the staff in it should be pensionable?—I do not think it has.

Mr. ARTHUR OLDHAM JENNINGS (Registrar of the Brighton County Court), called and examined.

53,993. (*Chairman.*) You are Registrar and High Bailiff of the Brighton County Court?—Yes.

53,994. You are also Registrar of the Brighton District Registry of the High Court?—Yes.

53,995. How long have you held those offices?—Since 1884.

53,996. Before that had you practised as a solicitor?—Before that I was a member of a firm of solicitors in Brighton.

53,997. You are President of the Sussex Law Society?—Yes, I happen to be that at the present time.

53,998. Have you seen the evidence given by Mr. Lowe on the subject of County Courts and their offices?—I have seen a précis of the evidence he was proposing to give.

53,999. Do you concur generally in the views therein expressed?—Yes, generally.

54,000. Your own court is, I think, one with a little more than 6,000 plaintiffs?—Up to the war time it always exceeded 6,000. It dropped a little below 6,000 last year for the first time.

54,001. Are you required to give the whole of your time to the duties of your office?—Yes.

54,002. How is your salary fixed?—I am paid by fees; that is to say, I am paid according to results.

54,003. Entirely?—Entirely. There is a maximum which must not be exceeded, but whether I reach the maximum or not depends on the amount of work done in the court.

54,004. That applies to the District Registry work as well as to the County Court work?—Yes; the district registry remuneration is part of the maximum which I may reach.

54,005. What is the maximum?—*l.*1,400*l.*

54,006. Has your remuneration reached that figure in recent years?—Yes. Generally it has reached that figure. It fell short of it, I think, two years ago, and it has done occasionally in the past.

54,007. Your remuneration as high bailiff is outside that remuneration as registrar?—Yes.

54,008. To what does that amount?—It averages about 150*l.* It varies.

54,009. What is the staff of your office?—In the County Court, that is, in the Registrar's Office, I have seven clerks altogether. There are three clerks in the Bailiff's Office and six bailiffs.

54,010. Taking the clerks first, they have partly a fixed salary and partly remuneration by fees?—Yes, nominally.

54,011. By the Schedule B fees?—They get a certain proportion of them, or one or two do; but I

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find it so inconvenient that a salary, which is not very high, should vary that it generally comes to my making it up if they suffer from Schedule B.

54,012. That is to say, any variation in the produce of the Schedule B fees falls on you and not on the clerks?—Practically it comes to that as a rule.

54,013. Those clerks are appointed by yourself?—Yes.

54,014. Are they practically permanent?—Yes.

54,015. Have you ever had occasion to dispense with the services of a clerk?—Only a very junior clerk. That is to say, the clerk who comes as office boy may turn out to be unsatisfactory and he goes, but a clerk who has really attained an actual position as clerk remains, unless by accident he gets some other work.

54,016. Did you take over from your predecessor the staff that you found there?—Yes.

54,017. The same observations would apply as regards the clerks in the High Bailiff's Department?—Yes.

54,018. Do you consider that the system of payment by results is a satisfactory one?—I do not consider it is for the larger courts. I think it is inconsistent with a judicial office that the salary should depend, even partly, on what particular course may be taken in a particular event. It gives occasion for the attack which has been made, I notice, in one of the statements of the clerks, that a registrar may be guided in a particular decision by a consideration as to whether it will affect his own salary or not. Although I think it is quite baseless as a charge, I think it is a misfortune for an officer who holds a judicial position that he should be even exposed to such an attack. I think he ought to have a fixed salary. I am referring to the larger courts only.

54,019. For the smaller courts do you see any alternative to payment by results?—I do not see any alternative.

54,020. So your observation applies only to the larger courts?—Yes.

54,021. It was suggested by one witness that the system of payment by results had been largely responsible for the great success of the County Courts, especially in the early days, by making it a direct interest to the persons concerned to serve the convenience of the public, and to make the courts useful. Do you concur in that view?—I think it is quite possible that the making of the registrar's salary depend on the amount of work he could attract to the court may, in the early days, have been useful to establish the County Court as one of the institutions of the country. But I still think, as I said before, that it is an undignified position for a judicial officer to hold, that his salary should depend on what orders he may make.

54,022. If his remuneration was entirely independent of the amount of the work it would not have any tendency to make him discourage applications to the court?—It does not in the case of other judicial officers. One may suggest that a judge, for instance—to compare great things with small—does not do his work because his pay depends on the way he does it.

54,023. In fact, you do not attach much importance to the argument as to the effect upon the officers concerned of the system of payment by results?—No, I do not in the case of the larger courts where a man gives his whole time to his work. I think his interest in doing his duty would be quite sufficient in the case of men of that stamp to ensure their doing their work to the best of their ability. Our work is very much the same as that of the masters of the Supreme Court—exactly the same, as far as the district registry is concerned—and they are paid regularly. I rather want to point out that the section of the Act of Parliament under which we are remunerated seems to contemplate a fixed salary for the registrars of the larger courts. Section 45 expressly speaks of it as a fixed salary. I suggest that that was the intention of the Legislature at the time.

54,024. That section lays down that in courts where the number of plaintiffs "have at any time exceeded six thousand, the amount of salary shall be fixed from time to time by the Treasury with the concurrence of the Lord Chancellor, but in no case shall the net salary, exclusive of clerks' salaries and office expenses

"to be allowed, exceed seven hundred pounds a year"?—Yes, it speaks of a fixed salary; and it goes on to say that the Lord Chancellor may require him to do no other work, and in that case he shall be considered to be one of the officers of the Supreme Court.

54,025. It gives power to the Lord Chancellor to prescribe that in certain courts the registrar shall not do any other work—shall not practise as a solicitor?—Yes, that is the case in Brighton. At the same time I do not become an official with a fixed salary.

54,026. How is it that although your court has had, until lately, 6,000 plaintiffs, you have not had a fixed salary as registrar?—I think it is rather an anomaly. The Treasury take the view that when they say "fixed salary" they do not mean to fix a certain amount, but to fix it on a certain scale. Although I am required not to practise, yet I am not required not to practise by an Order laid before Parliament, which this section contemplates. The Lord Chancellor took my personal undertaking not to practise, and therefore the Treasury say they need not allot me a fixed salary under the last part of the section. I will not comment on it, but that is a fact.

54,027. Then it is not the case that all the registrars of the courts with more than 6,000 plaintiffs have a fixed salary assigned to them as registrars?—No, I think there are only about eight or ten—I am not sure of the exact number.

54,028. Your own salary is made up of remuneration for your work as County Court registrar and your work as district registrar of the High Court?—Yes.

54,029. The number of plaintiffs in your court having been more than 6,000 until recently, it would seem that under Section 45 of the Act of 1888 a fixed salary ought to have been paid to you, that salary to be fixed from time to time by the Treasury with the concurrence of the Lord Chancellor?—Yes.

54,030. How, in practice, has that section been interpreted and applied?—The Treasury have issued a minute on which the remuneration of the registrars in courts over 6,000 plaintiffs is based, and that minute provides that the salaries of those registrars shall vary in accordance with the number of plaintiffs issued in the Court. So if I issue 6,000 plaintiffs my County Court salary is one amount, and if I issue 7,000 plaintiffs my County Court salary comes to a different amount.

54,031. That amount is always subject to the limit laid down by the section, that the net salary must not exceed 700*l.* a year?—Certainly.

54,032. Where you have a salary for a joint office, as in your case, that is subject to the total limit of 1,400*l.* a year?—Yes.

54,033. Towards that 1,400*l.* a year can the County Court work contribute more than that maximum of 700*l.*?—No.

54,034. Except so far as you may have Schedule B fees added to the 700*l.*?—Yes.

54,035. Your suggestion is that that system is unsatisfactory, and that a freer use should be made of the power which Section 45 gives of assigning to registrars of the larger courts a definite fixed salary?—Yes.

54,036. Not varying according to the number of plaintiffs?—Yes, particularly where the registrar also has High Court and Bankruptcy jurisdiction.

54,037. Turning now to the question of your clerks, you are aware that claims have been put forward on behalf of the clerks that they should be given an established Civil Service status, or, at any rate, that they should in some form be made pensionable?—Yes.

54,038. What is your view as to those claims?—I think it would be extremely difficult to give them a Civil Service status in a court of the size of Brighton, or most courts. I thought it possible that Birmingham offered the best chance of it where there is a staff of about 60; but in Brighton, where I have only seven clerks altogether, I do not know quite how I should grade them, or arrange promotion, or anything else. The clerks remain an extremely long time in the County Court without change; they get there and, as I suppose is the case with many other clerks in offices which are not Government offices, the clerks go on for a very long time. The pay is very small and about

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the same rate as solicitors' clerks get under the same circumstances. I do not see how I could possibly arrange to grade them, or arrange for promotion of them. I should myself be very glad if some scheme of pension—a contributory scheme of pension—could be arrived at, helped by the Government, because I see the great difficulty of clerks remaining in the office for a long time after they are past work.

54,039. Have you had such cases in your experience?—When I first went to Brighton I took over two clerks as legacies, one of whom, I think, was over 70 years of age, and quite past his work; but he had made no provision for old age, and it requires great strength of mind or hardness of heart, or something of that kind, to get rid of a man whom you know you are turning into the workhouse, and he was retained on that ground. My own clerks have not at present arrived at that stage, although I have many who have been there a very long time, and I should be very glad if some system of pension could be arrived at.

54,040. Dealing first with the question of a graded service, the introduction of a system of that kind would, I presume, imply some freedom of transfer between the offices of the different courts in order to equalise promotion?—It seems to me inevitable.

54,041. Would such a system be workable?—I do not think it would. First of all there are so many local differences in the administration of the different courts—small differences of practice and differences arising from the nature of the locality in which the court is situated—that I do not think it at all convenient to transfer clerks from one court to another. I do not know whether it would be possible, but it seems to me, at any rate, it would be attended with very great inconvenience.

54,042. Would it also imply appointment by some central authority and not by the individual registrar?—I am afraid it would.

54,043. Would that be attended with any great inconvenience?—Great inconvenience and great danger, if I may say so. Where the clerk for whom the registrar is responsible is not appointed and dismissible by the registrar, it seems to me full of difficulties, and I do not see how it could work at all in practice.

54,044. Do you apprehend that the registrar would not have sufficient control over his clerks if their appointment and dismissal were not in his own hands?—I do. So long as the registrar is held responsible for the clerks, as at present he is, financially and otherwise, it seems to me impossible to take away from him the appointment and dismissal of the clerks. There must be control by one man in an office like a country registrar's office. If that is taken from the registrar I do not see what system you would substitute for it.

54,045. In some departments of the Government, such as the Inland Revenue and Post Office, you have local offices all over the country with a graded service and centrally controlled?—I believe so. I am not quite sure how low down the clerks are counted as Civil Service clerks. For instance, are they all graded? I have no information about that nor about their pay.

54,046. At any rate you attach great importance to the personal control which the present system gives the registrar?—Undoubtedly, very great importance.

54,047. Do you consider that the present system of fixing the salaries of clerks is satisfactory?—The system by which the registrar himself fixes what proportion the clerk should have of the total amount?

54,048. First of all a fixed sum is laid down for clerk hire?—Yes.

54,049. That total sum is distributed by the registrar among the clerks in his office entirely at his own discretion?—Yes.

54,050. The clerks, in addition, receive certain sums out of the produce of the Schedule B fees?—In some cases. That is also discretionary at present.

54,051. Can that system be employed in your own court, for instance, in a satisfactory manner as regards the remuneration of the clerks?—I think so. I do not see on what other principle you could well allot a sum of that kind when the payment is made in that way.

54,052. The complaint has been laid before us that a system of that kind does not provide for any progres-

sive increase in the clerks' remuneration, that any advancement in their pay depends on the occurrence of vacancies, and that consequently a clerk who is getting on in life and has acquired the responsibility of a family may remain fixed at a comparatively low salary. Do you think that criticism is a just one?—I think it is to a large extent just; but I think it is unavoidable where you have an amount from the Treasury which you may not exceed. The alternative of increase of salary according to a scale would be very expensive. We should be very glad if the Treasury would enable us to increase our clerks' remuneration, but that the allocation of the increase, or whatever the nature of the amount is, must remain with the registrar is imperative; he alone knows the merits of the clerks, and what their deserts are. His only interest is to reward them according to their merits, or I presume so.

54,053. Taking the remuneration all round, do you think it is adequate?—It is very difficult to say. It has not been increased in accordance with the increased cost of living. One knows that those workmen and men who can agitate for increases are doing so. The clerks, not only in County Courts, but most clerks, are still kept to a scale of pay which has become much less than it was when they were first appointed, and from that point of view it is unsatisfactory; but it is an experience they share with other clerks who do similar work in similar localities. The work my clerks do is very much the same work that solicitors' clerks do who make the same kind of complaint.

54,054. How does their remuneration compare with that of a solicitor's clerk?—It is about the same, but men prefer the work in the County Court because it is not such onerous work as solicitor's work. The kind of man who takes the work is about the same with the same qualifications.

54,055. The chief need, you think, is for a system of pensions?—I do. I think it is very hard on the older clerks.

54,056. Would it be practicable to introduce a system of contributory pensions?—It would; but it would require careful working out. It has been suggested in the case of teachers under the Education Committees, and other similar bodies, who are finding the same need of starting a contributory scheme.

54,057. The first difficulty would be in dealing with the older men on the first introduction of the scheme?—Yes, there always would be difficulties.

54,058. Some contribution could be arranged to meet those difficulties?—That could be arranged.

54,059. You think a satisfactory scheme could be devised?—Yes, I think so. I do not speak as an accountant; but I think it is possible.

54,060. Do you think that any reduction could be made in the number of the smaller courts?—I think so. It leads at present to a most deplorable waste of time. Only last week a judge took six or seven hours travelling to a remote court where there was not a single case for him when he got there. One knows that at the larger courts there are people waiting impatiently for the judge's services. That is not an isolated instance. I know many such cases every year when there is either very little or nothing for a judge to do in a smaller court. When one knows the grievance expressed by suitors who are waiting, it seems to be an absurd waste of judicial time, apart from the expense of maintaining the smaller courts. Of course, it is not an easy thing to do. The locality of the smaller courts would not like it, and, naturally, the registrars do not like being abolished, and I suppose due consideration would have to be given to those who hold the office.

54,061. Apart from the question of individual interests, would the public convenience suffer by the abolition of the smaller courts?—I do not think so. The system dates from a period when communication was not easy between different towns in the same county when there were hardly any railways. It is so entirely different now, that I think there would be no real grievance in asking a suitor to travel a short distance by train as compared with the old days. Of course, any power of the kind would have to be exercised with caution.

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[Continued.]

54,062. Taking the circuit in which Brighton is situated, there appear to be some courts where a very small number of complaints are entered?—Undoubtedly there are.

54,063. At Midhurst, for instance, there are only 150 complaints?—And Midhurst is a fearful place to get at, whereas it would be perfectly easy for the Midhurst people to get to Chichester or Horsham. To get to Midhurst from wherever the judge may be living is a very difficult thing. I have frequently heard judges say that they had gone to Midhurst, and that there was not perhaps work to keep them ten minutes when they got there. That was not the court I had in mind at the moment, but I think that takes 2½ hours to get to by train, and you have to wait until you get one.

54,064. In some cases two of the smaller courts have been joined together under the same registrar?—Yes.

54,065. Would it be desirable to extend that system?—Yes. It requires a little care in working out. The point is, I think, that the larger court ought to be the place of trial, which the judge can easily reach. There is no objection to one of the smaller places being the place where the complaints issue.

54,066. The main objection to the very small courts is the waste of time of the judge?—That is the main objection, and also there is the objection that you are continuing a useless organisation that is not wanted—useless machinery, rather—but that is not a very serious thing, because the pay the registrar receives is something very small in the small courts; at the same time, it seems to me quite useless in many cases.

54,067. (*Mr. Graham Wallas.*) Have you ever considered whether the work in the Probate Registry in the provinces could be more largely, than is at present the case, combined with that of the County Court Registry?—Yes.

54,068. Do you think that would be practicable?—I think, quite practicable.

54,069. Taking the more closely populated parts of England, do you think it would be possible, if you concentrated the Probate Registry, the County Court Registry, and, where that was practicable, the High Court Registry in one office, to cover all the outlying parts of England with a set of whole-time registrars?—Yes; I think it would make it much easier to appoint whole-time registrars.

54,070. You told us that one of the disadvantages of the existing system where there are part-time registrars is, that the registrar feels—although it is not likely to influence his judgment—that his remuneration depends upon the line of action he takes and the policy he adopts on certain proceedings?—Yes.

54,071. Would you mind giving us a few instances of the kind of questions on which the remuneration of the registrar depends upon the line of policy?—Let me give one instance: The issue of a summons outside his own district depends on the discretion of the registrar. We have to exercise that discretion on an affidavit and make up our mind about it. I see one of the clerks suggests that the reason we give leave for the issue of a summons out of the district is, that it will increase the number of complaints on which we are remunerated. I think it is an absurd charge; but it is one of the kind of remarks that I personally resent as a judicial officer, that it should be assumed that I am exercising my discretion as considering how far it will affect my own salary. Another more absurd instance arises under the Courts Emergency Powers Act, under which no creditor may enforce any remedy against a debtor unless he gets the leave of the County Court Registrar. I have some 20 or 30 applications a day. The creditor has to pay a fee before he gets before me, and that fee goes to me personally. The rules provide that the registrar may, in any proper case, waive that fee; that is to say, that I may be allowed to give 2s., or whatever it may be, to the man before me out of my own pocket. I suggest that it is absurd that a rule should be passed that I may be allowed to give somebody 2s. by way of charity. I am of opinion that that is a kind of absurd instance.

54,072. Those instances are interesting. Could you consult your memory to give us another?—There are

several instances in bankruptcy in which precisely the same considerations arise—leave to issue a petition, and things of that kind, but I would rather not give a particular instance without being sure of it. Those two I have given occurred to me when you were speaking.

54,073. As to pensions, do not you think some alteration would have to be introduced into the conditions of appointment and dismissal of officials if they are to be made pensionable?—It has not been done with regard to teachers; they are still appointed in the same way, locally. There is a scheme of pensions for secondary school teachers.

54,074. The scheme of pensions for secondary school teachers is not yet a Government scheme?—It has been thought out but not adopted, as it would have been probably, but for the war.

54,075. The scheme of pensions for elementary school teachers requires that a man should be a certificated teacher, and that involves an examination, a medical inspection and other things?—Quite so.

54,076. You agree that it would be impossible to admit anybody to a State-aided pension scheme unless he submitted to a serious medical examination?—I agree.

54,077. Do you think there is any other consideration or condition?—I think the appointment might still be left to the registrar subject to the one question with regard to health. One is burdened by the misfortunes that one sees, and one is so anxious to think of some method to avoid the worst part of that particular grievance. I agree that there may be difficulties, but I do not think them at all insuperable.

54,078. If you have a couple of clerks who are only very partially efficient you have to appoint other clerks to do their duty?—Yes.

54,079. And, since the amount of the sum allowed you for clerk-hire is fixed, that means that the other clerks get less than they would have because they have inefficient colleagues?—I agree; but I cannot conceive the registrar appointing a man he knew to be inefficient.

54,080. But if you have two clerks who are over 70 or 80 years of age who cannot do their work, they nevertheless get a portion of the sum assigned for clerk-hire, and the clerks who have to do their work get less than they otherwise would for the work they do?—That is quite true, and I have heard that view expressed by clerks before.

54,081. (*Mr. Boutwood.*) You spoke of the importance of the registrar's control over his clerks?—Yes.

54,082. Would you still think that control important if the financial responsibilities of the registrar were taken away?—I should still think it important, but I should not resent it so much if I were not financially responsible for the men. It appears to me that in all establishments you must have one individual who can be got at, and who can control the men under him. That is the view I hold.

54,083. (*Mr. Coward.*) There is no District Probate Registry at Brighton?—The District Probate Registry is at Lewes for the Brighton district—not in Brighton.

54,084. Lewes is a very much smaller place than Brighton?—Yes.

54,085. And one would have thought, if it were for the benefit of the people, the Probate Registry should be at Brighton rather than at Lewes?—Yes, I have heard that view expressed before. It is a common view, I think.

54,086. You indicate, as I understand, that there would be in your view no difficulty whatever in the Probate Registry being attached to the County Court Registry at Brighton?—I see no difficulty.

54,087. Supposing you had the assistance of one competent clerk from the Probate Registry, for instance, at Brighton, do not you think the work would be quite efficiently done. Can you form an opinion?—I can hardly form an opinion because I do not know the exact number of wills proved in Lewes. Those figures are not before me. I do not know how many clerks they use at Lewes for the purpose.

54,088. I can tell you, but it is not worth looking at. It would be a great economy to have all the work centred in one office?—I certainly think it would.

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Mr. ARTHUR OLDHAM JENNINGS.

[Continued.]

54,089. (*Sir John Kempe.*) I want to ask you a question that I asked Mr. Lowe. You attach great importance to the responsibility of the registrar, and you consider that you somehow guard against the responsibility by appointing your own clerks. I cannot follow the difference between appointing your own clerks and finding a clerk already appointed at your hand in the office. You get to know a clerk after a time, and surely can control a clerk so as to lessen your responsibility as far as possible; he is known in the office, whether appointed by yourself or by anybody else?—I should know him, but if I have not the power of dismissing him I do not see why I should be held responsible for what he does.

54,090. Why should the power of dismissal make the difference? A clerk in the Civil Service works very hard if he wants to get on, and he may get dismissed if he is a bad worker; but he is controlled simply by the desire to get on, and by a proper discipline held over him by the head of the office. Cannot you do the same thing in your office without appointing the man yourself?—If I had either an incompetent clerk or a clerk whom I suspected of gambling, or anything of that kind, I would send him away at once, not only in view of the public interest, but because I am responsible for any mistakes that he makes; but if I were held responsible for any clerk I cannot get rid of I should feel myself badly treated. I am financially responsible for any mistake my clerk makes; I have to make it up. I know that a registrar in a neighbouring court to mine had to find a large sum of money which a clerk misappropriated. The Treasury suggestion is: "You appoint that clerk and can get rid of him, and it is not unfair that we should hold you responsible." A registrar would very much resent a clerk being saddled upon him whom he could not get rid of.

54,091. But do you think if you took on a clerk appointed for the public service you would be more liable to get a clerk who would get into gambling habits than you are now?—I do not know that I would be more liable to get that, but now I can send him away directly I find it out.

54,092. In the Civil Service such things happen sometimes, but they are very rare?—The smaller salary a man has the greater temptation he has to go wrong. Gambling is an instance. I know several instances in

my own circuit where that has occurred with clerks, and where the registrar has been required to replace sums which a clerk has not for some reason accounted for. I say it would be hard that the registrar should not be able to get rid of him directly he had a cause to suspect him.

54,093. (*Chairman.*) Do you take any fidelity guarantee from your clerks?—Only from the chief clerk. The chief clerk himself keeps a very close eye upon the others. I only get one from the chief clerk. The practice varies in different courts.

54,094. (*Mr. Matheson.*) Have you taken any clerks into your office who have not had experience before in a solicitor's office?—Yes. A large proportion of them come in originally merely as junior clerks or office boys, to use a common expression.

54,095. You find no difficulty in teaching them the work?—No, if they are intelligent they come on. My own view is that the best and most satisfactory clerk is the one who has come on in that way from the very beginning.

54,096. At what sort of age?—Fifteen.

54,097. Have they generally been at a higher school of some sort?—Very often. One generally tries to get a boy who has been at a higher school, and I generally try to insist on their further equipping themselves by attending evening classes. I encourage them as far as I can.

54,098. You said their work was not so onerous as the work of a solicitor's clerk. Is that in the hours or the quality of the work?—It is mainly a question of hours. They are fairly reasonable hours and it is not difficult to get away on any special occasion; one is fair to one's clerks. The hours are the main point; they are not required to work overtime in the same way that they are in solicitors' offices very often. I think I ought to add that I, myself, am under great obligations—and I think we all are—to our clerks, and I should not like it to be assumed that I am making any attack upon them in what I have said. I do not think we should be able to go on if we had not extremely efficient clerks, particularly the chief clerk. I am very much indebted to my clerks for helping me. My own time is taken up with judicial work; I can do nothing with the book-keeping; I have not the time, and therefore I could not oversee the clerks in that way at all.

Mr. GURNEY COOMBS (Registrar and High Bailiff of the Thrapston and Oundle County Court), called and examined.

54,099. (*Chairman.*) You are Registrar and High Bailiff of the County Court at Thrapston and Oundle?—Yes.

54,100. Those two courts were joined together not long ago, I think?—About seven years ago, I think it was.

54,101. Before that you had been registrar and high bailiff of the Oundle court?—Since 1892.

54,102. Are you a solicitor?—I am.

54,103. Do you practise as a solicitor in addition to your work as registrar?—Yes, and I hold several other public appointments.

54,104. Are your headquarters at Oundle?—Yes.

54,105. First, what is the amount of work done in the two conjoint courts? Has the average number of complaints in recent years been between 600 and 700?—That is so, until last year, when there was a decided falling off which we attributed entirely to the Emergency Powers Act.

54,106. That has been the experience everywhere, I suppose?—I believe so.

54,107. Your remuneration depends upon the number of complaints?—It does, in the aggregate. As, perhaps you are aware, every registrar has a fixed salary of 100*l.* a year, and then he is paid fees of 4*l.* for every 25 complaints beyond 200.

54,108. In addition to that, you receive certain remuneration as high bailiff, and from Schedule B. fees?—That is so. Shall I explain to you the system on which the high bailiff's salary, where he is acting also as registrar, is calculated?

54,109. Yes?—It is done in this way: A deduction of one-third is made from the salary of the registrar, exclusive of his fees, and then he is allowed one-fifth of the balance.

54,110. What has been your total remuneration in the last three years from all those sources?—In 1912, from the two sources—registrar and high bailiff—it was 250*l.*; in 1913, 225*l.*; and in 1914, 193*l.* That is, of course, without any deduction being made for income tax.

54,111. That is the net amount remaining to you after providing for the salary of your clerk and your assistant bailiffs?—That would be so.*

54,112. Have you one clerk?—I have one clerk. He is, I might say, exclusively employed in the County Court work, but at Oundle my other clerks assist him when required. I have a most experienced County Court clerk, who is not now doing County Court work as his ordinary duty, but he assists the regular County Court clerk, and, to a certain extent, supervises his work, and, if occasion requires, he is sent to the other office to assist.

54,113. Have you two assistant bailiffs?—Yes, one at Oundle and the other at Thrapston. The assistant bailiff at Oundle has other occupation. The assistant bailiff at Thrapston is wholly employed on the court work. I do not know whether at this stage it would be of interest to the Commission to know the area and the population of the two districts: The Oundle dis-

* I should have stated that the sum of 30*l.* a year is allowed by the Treasury towards the salary of my clerk.—G. C.

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Mr. GURNEY COOMBS.

[Continued.]

trict consists of 35 parishes with a total acreage of 69,516, and a population of 10,936. The Thrapston district consists of 31 parishes with an acreage of 51,714 and a population of 15,385, so that the number of parishes in the combined district is 66, the acreage is 121,230, and the population is 26,321. I ought perhaps to add to that, that the district, particularly that of Oundle, is mainly agricultural. In the Thrapston district we run into the shoe-making industry, and also into considerable ironstone works; otherwise it is agricultural.

54,114. Dealing first with the question of your own remuneration, we have had some expression of views from other witnesses on the system of fixing the remuneration as applied to the larger courts. We should like to have your views on the system as applied to the smaller courts. Do you think it works satisfactorily?—I think it does on the whole, and I am really not able to suggest a system which I think would give greater satisfaction or would be any better in the public interest.

54,115. In the smaller courts you have very large variations in the amount of work?—We do.

54,116. And therefore, in the amount of time the registrar is required to give to it?—Yes.

54,117. It would, therefore, appear to be inevitable that there must be some system of adjusting the salary to the amount of work that the registrar is required to do?—Quite so.

54,118. You think a system which makes it directly dependent on the amount of work in any year is as satisfactory or more satisfactory than a system under which he would have a fixed salary modified from time to time according to the variations in the work?—Yes I do, and perhaps I may add this: I am a magistrates' clerk, and the system in that case is that the standing joint committee of the county fixes a salary and has power, with the consent of the Home Secretary, to revise that salary from time to time. I have held that office now 23 years, and in my experience it is extremely difficult to get any revision when there is any change in the volume of business.

54,119. Does that apply in both directions?—The standing joint committee has its eye upon reductions and perhaps the magistrates' clerks have their eyes upon increases, but certainly the standing joint committee have revised the salaries, I am bound to say, in cases, and where the courts have shown a large increase of work they have endeavoured to meet the claims of the magistrates' clerks, but in cases where there has been a decrease in the amount of the work I think their revision has been somewhat drastic. So certainly, speaking for myself, and I think perhaps I could also speak for the registrars, I say that the registrars of the smaller courts generally are not at all dissatisfied with the present system on which they are remunerated. I have never heard any complaint, and, so far as I am aware, the Association of County Court Registrars has never taken any action in the matter or made any suggestion—I may be in error here—with a view to the adoption of some other system.

54,120. Speaking for yourself you prefer the automatic system?—I think so. I think it is fairer, and, if I may say so, I think it is also fairer to the public purse.

54,121. Turning now to the clerks and the high bailiff's staff, your clerks and assistant bailiffs are appointed by yourself?—They are.

54,122. Do you attach importance to that method of appointment, and also the power of dismissal, as bearing on the question of the registrar's control over his officers?—Speaking now, of course, of the smaller courts, I think that inasmuch as the registrar is the paymaster of the clerks and bailiffs they should be appointed by him and be answerable to him. I do not see that it would be possible in the smaller courts to get officials appointed by the central authority, because local knowledge, so far as the bailiffs are concerned, is of the greatest importance in the discharge of their duties. If you sent a man down to a district such as mine, with a very large area, from another district entirely without any previous experience of the actual working,

I am afraid it would cause a great deal of trouble and confusion.

54,123. In the case of the smaller courts, are the clerks very often only part-time officers?—I think I may say, mostly so.

54,124. Is not your case somewhat exceptional in having a whole-time clerk employed upon the County Court work—I mean exceptional as regards courts comparable with yours in size?—I think it is, and it arises from this: A considerable part of his time is spent in travelling. Although Oundle and Thrapston are only some eight miles apart, in going backwards and forwards by train a good deal of time is occupied.

54,125. In the case of part-time officers, there would be obviously difficulties about any system of central appointment?—Yes, it is obvious that there would be.

54,126. Do clerks often move from one court to another?—In my experience three of my clerks have passed from mine to larger courts.

54,127. They saw an opportunity of bettering themselves?—Exactly. They have been principal clerks to me, and have secured appointments as principal clerks in a much larger County Court office.

54,128. A good man has in that way an opportunity of rising into a better position?—Undoubtedly.

54,129. At present there is no system of pension for the clerks?—None whatever.

54,130. Do you think it would be practicable and desirable to establish some system of pension?—I think it would be most desirable, but whether it is practicable in a case where the clerk's time is partly employed in the private work of his master, I rather doubt, because I think it would be somewhat difficult to get the Treasury to sanction a pension scheme which would meet the case.

54,131. In the case of a contributory pension scheme, it would be more possible to meet cases of that kind?—Yes, it would, I think, certainly. Personally I should only be too glad to see a pension scheme established, and I would suggest that it should be on a very similar basis to that which obtains with regard to the clerks and other officers employed in the administration of the Poor Law.

54,132. Is that a contributory scheme?—It is.

54,133. The clerks makes a contribution and the authorities makes a contribution, too?—That is so.

54,134. Does that apply solely to the whole-time employees, or does it apply to part-time employees as well?—Frequently clerks to the guardians of the poor hold other appointments.

54,135. It is practicable to have a contributory pension scheme of that kind to include part-time officers?—It is. The Poor Law scheme is a voluntary one; the officer is not bound to put himself under it unless he wishes to do so.

54,136. But the principle of the scheme would be equally applicable even if compulsory?—Certainly.

54,137. You would be in favour of the adoption of some scheme of that kind?—Entirely.

54,138. Your functions apply to two courts united together?—Yes.

54,139. Is that a common arrangement?—It is not common. Do you mean as registrar and high bailiff, or as registrar of two courts held at different places?

54,140. I am speaking of your being registrar and high bailiff in two courts at different places?—With regard to the first part of your question, the Treasury invariably allows and wishes the registrar to act as high bailiff in the smaller courts.

54,141. We have heard in evidence that that system is being introduced in all except the very largest courts?—That is so.

54,142. That, I presume, is a convenient system in the smaller courts?—It is, and I imagine that there is some saving to the Treasury.

54,143. Then, as to the question of the union of the two courts at different places, how does that work?—I cannot say that it is common, but there are a large number, and, I think, an increasing number, because the idea is encouraged by the Treasury and by the Lord Chancellor's Department, as I understand. The judges, I have been told, have been asked in filling up vacancies

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[Continued.]

to consider the question of the amalgamation of smaller courts.

54,144. Is it an economical arrangement?—The Treasury saves the salary of one registrar.

54,145. That is to say, the Treasury saves that part of the salary which is in addition to the proportionate scale payment?—That is so.

54,146. Which is not a very large part?—No; it is 100*l.* a year.

54,147. 100*l.* a year, representing 200 complaints?—Yes.

54,148. The scale being 16*l.* per 100 complaints, the saving is the difference between 32*l.* and 100*l.*?—That would be so.

54,149. Are there expenses to set against that?—Yes, but not in all cases. In my own case the Treasury have been obliged to provide, furnish, and equip an office at Thrapston. My predecessor was a practising solicitor there, and he merely gave the County Court accommodation in his own office. Of course, a small allowance was made to him for that of 10*l.* a year, but now the whole expense of the Thrapston office falls upon the Treasury.

54,150. Is the arrangement a convenient one for the public?—I think so, on the whole, now that they have got accustomed to it. The offices are open for three days in each place.

54,151. A suggestion has been made to us that some of the smaller courts might with advantage be abolished, the argument being that the great improvement in means of communication which has taken place since the County Court districts were laid out, has rendered a good many of those small courts unnecessary now. Are you prepared to express an opinion on that point?—Of course, that depends entirely upon the districts themselves. If the railway facilities are good, no doubt some of the smaller courts might be taken to a centre; but in my own district, where the railway facilities are bad, I am afraid it would be a great hardship to a good many people. For instance, supposing my two courts, or one of my courts, were transferred to Peterborough, it would be taking it 13 miles away, and from the extreme limit of my Oundle district, which is the district nearer Peterborough, people would have to travel some 27 miles each way to get to the centre. A great part of that distance, all but 13 miles of it, would have to be travelled by road, there being no railway communication at all.

54,152. Then you say it depends entirely upon the local conditions whether it would be advisable?—I think so—on the facilities for getting to what would be made the centre of the administration of justice.

54,153. You told us that in the case of the registrar you thought the system of remuneration by results was satisfactory. Does that observation apply also to the system of remunerating the high bailiff?—No, I do not think it does, having regard to the great responsibility there is on the shoulders of the high bailiff, he being answerable for every act of his officers, and a very simple and apparently harmless mistake may involve him in very serious consequences, if an action is brought against him for the mistake of his officer. It seems to me that, having regard to the responsibilities and the amount of supervision that the work of the bailiffs requires, if it is to be efficiently done, the remuneration awarded to high bailiffs is small.

54,154. Your criticism applies rather to the amount than to the particular system by which the amount is arrived at?—Yes, the amount. I do not see any objection to the system.

54,155. Does it often occur that the high bailiff has to meet claims of the kind you mention?—I am very glad to say, after 23 years' experience, that I have not had an action brought against me, though I have been threatened with actions many times; but friends of mine holding similar positions have been less fortunate, and actions have been brought, and are frequently brought, against high bailiffs for alleged misconduct or some slip on the part of their officers.

54,156. Have you known any case in which the action has been successful?—Yes, I have.

54,157. The high bailiffs have had to pay sums of money?—They have had to pay damages and costs.

54,158. (*Mr. Matheson.*) Are you satisfied with the kind of men you get as clerks?—Yes. Of course they are my own selection, and, speaking generally, they have started, so to speak, at the bottom of the ladder in my office, and whenever I have seen a clerk who was promising and a good worker, I have kept my eye upon him and promoted him to the County Court office when opportunity arrived.

54,159. And you train them yourself?—So far as I can. I have had occasion to go outside my office, but it is usually to get a junior clerk or a clerk who has had experience in another court.

54,160. How do their pay and prospects compare with those of ordinary solicitors' clerks?—I should think they are quite equal to, if not somewhat better than, those of ordinary solicitors' clerks.

54,161. Are their hours much the same or shorter?—They would be shorter. Nominally, we are supposed to keep the hours of 10 to 4 in the County Court office.

54,162. An ordinary solicitor's office hours would be considerably longer?—Yes. My own clerks are frequently there until 7 in the evening.

54,163. Do your County Court clerks find anything to do in their spare time?—Yes. The clerk whom I now have with me happens to be a very efficient shorthand writer, and he takes, with my approval, pupils, and he also gives instruction at a County Council evening class.

54,164. Supposing by any arrangement the County Court clerks became Civil servants, do you think that the improved status would produce a better class of men?—It is, of course, impossible to give a definite answer to that question, but I doubt it myself.

54,165. (*Sir John Kempe.*) You say that in the larger offices, "You see no great objection to the appointments being made by the Treasury and being open to a limited competition, provided that the examination of candidates is made entirely a practical one, and that the officer appointed is placed entirely under the control of the registrar." Do you mean by that, that he is to have the power of dismissal of the clerks?—Perhaps I ought not to go so far as that, because I think that if the registrar proposed to dismiss a clerk employed in that way, it would be only fair and right that the registrar should have the authority of the Treasury—that he should report the matter to the Treasury, and that if the Treasury approved, he should be at liberty to dismiss him.

54,166. You would not be satisfied with the ordinary regulations of the Civil Service if a man were appointed by competition under the Civil Service Commission. Would not you like the ordinary regulation of the Civil Service and be satisfied with that?—Perhaps I am not quite familiar with the ordinary regulation.

54,167. A clerk cannot be dismissed off-hand except, of course, for misconduct and that kind of thing. Do you see any great difference between appointing a clerk yourself and accepting a clerk appointed under guarantees by the Treasury? Do you not think you would get an equally good man in both cases?—I think so.

54,168. A clerk appointed by the Civil Service Commission would be liable to lose his pension and to lose promotion. A good registrar would have perfect control over his office, and ought to be able to keep his responsibility and control without having the power of dismissal?—If one got the right class of man who realised that he has a duty, not only to the hand that pays him, but to the person who is answerable for his work, I think, perhaps, there would be no great objection.

54,169. There would, no doubt, be lapses in both systems occasionally, but you would not in effect get worse men under the Civil Service system than under the present system?—No, I do not feel any apprehension of that.

Mr. C. C. CARTWRIGHT (Second Class Clerk, Bankruptcy Department), called and examined.

54,170. (*Chairman.*) You are a second class clerk in the Bankruptcy Department?—That is so.

54,171. When did you enter the department?—In November 1896.

54,172. What had been your experience before that?—Before that I was in the Revenue Department for about two years, and before that I was at South Kensington for a few years engaged in temporary work at the South Kensington Museum. Then I passed the examination and got into the Customs, and from there I was transferred to the Bankruptcy Department.

54,173. As a third class clerk?—As a third class clerk.

54,174. How long have you been in the second class? Eleven years next month.

54,175. At present you are one of the clerks to registrars?—I am attached to Mr. Registrar Hope.

54,176. What is the point you wish to bring before the Commission on behalf of yourself and your colleagues?—The great point is that, considering the nature and the responsibility of the work, we reasonably think that the scale under which we work is not adequate.

54,177. Are you speaking of the scale of pay applicable to each class of clerks?—I am speaking more now of the second class.

54,178. You are speaking specially of the second class?—Yes. Mr. Carr is here, and he will speak as to the third class.

54,179. The scale of the second class is 250*l.* rising by 15*l.* a year to 400*l.*?—Yes.

54,180. That is the same scale as the second class scale in other offices of the Supreme Court?—It prevails in all the offices.

54,181. Have you any special points to bring forward to support your claim that there should be a different scale in the Bankruptcy Office from that which prevails in the other offices?—Yes. If I may give you the work I do, which applies to the registrar's clerks especially: In yesterday's work, for instance, I was sitting in chambers, and one of the most important duties I have to do is to issue bankruptcy notices. A bankruptcy notice, left at that, conveys nothing; you would probably know if you were a lawyer what it meant, but I have to look out for certain things to see that the bankruptcy notice is in order. For instance, the first point is, that before issuing the notice I have to be satisfied that the debtor resides in the jurisdiction; that is simple. Another point is, that I have to see that the judgment on which the applicant is asking me to issue the notice is not more than six years old, or if it be more than six years old that he has had leave to issue execution.

54,182. (*Mr. Coward.*) Or that it has been renewed?—Yes, an Order of Reviver. If the debtor is a married woman we have to be satisfied that she is a trader. If the applicant cannot satisfy us in all cases where we have to be satisfied we refer the applicant to the registrar. Again, we have to see that leave to issue execution has been obtained under the Courts Emergency Powers Act, and in the case of a judgment against a firm, if the applicant is asking to issue a notice against a member of the firm, and if that member has not been personally served with the writ, or appeared, or has admitted that he is a partner, then the bankruptcy notice cannot be issued against that individual.

54,183. (*Chairman.*) I think it will take us some time to go through the whole of the particulars which you have to examine before the issue of a bankruptcy notice; putting it generally, may we take it that before issuing such a notice you have to examine a number of points in order to see that it is in order?—That is so; points which we say are very important.

54,184. (*Mr. Coward.*) And which are very familiar?—After a considerable time.

54,185. (*Chairman.*) Taking that as one item of your work, what is there in that which is more responsible or more difficult than, say, the work of second class clerks in Chancery chambers?—My great point on that would be this: that bankruptcy is penal, and we have to exercise a great amount of care, and therefore it is very responsible work.

54,186. Does not that apply to all legal work?—No doubt it does.

54,187. Serious consequences may ensue from any carelessness?—Especially serious consequences in Bankruptcy, I submit.

54,188. Would the consequences be more serious than in the case of an important Chancery Order?—May I read what a Lord Justice said on that? Lord Justice Moulton, in a case of *re a Debtor*, 1910, II King's Bench, where it was decided that a petitioning creditor could not obtain an order for interrogatories or discovery to prove the allegation in the petition, said: "In my opinion the principles on which discovery and interrogatories have been allowed in actions in the High Court show that when the real issue is of a penal nature neither discovery nor interrogatories will be allowed. Now proceedings in Bankruptcy are, of course, not actions, but in my opinion what the petitioner seeks by his petition is in the highest degree penal in its consequences. It amounts to a loss of civil status carrying with it grave disqualifications," and so on.

54,189. (*Mr. Coward.*) Nobody denies that?—I am urging that in support of our responsibility.

54,190. (*Chairman.*) Your representation on that point is, broadly, that the work of the second class clerks, and particularly of the clerks to registrars, is of a more responsible and more difficult nature than the work of second class clerks in other departments of the Supreme Court?—I do not wish to compare our work with the work of other departments at all. I say that in our department the work is of such a nature.

54,191. I should like to be clear as to your attitude in reference to other departments?—I do not base my claim by comparing the work with other departments at all.

54,192. Then how do you arrive at a standard on which to base your claim?—I rely to a great extent on what our own registrars said with regard to this. They know what the work of other departments is; they have seen us, and have gone into our scheme, which is before you, and they have unanimously agreed that we have a very fair case, and our application is very reasonable.

54,193. What is your suggestion or application?—My suggestion is that the second class should not be barred at 400*l.*, but should go to 500*l.*

54,194. I gather from the paper you have submitted that your suggestion is that there should be a larger number of clerkships of the first class in the Bankruptcy Department?—Yes. We ask you to recommend that the clerk to the judge should be a first class clerk, and that the senior clerk to the four registrars should also be a first class clerk, and that the others should go automatically to 500*l.*

54,195. Beyond the ordinary maximum of the class?—100*l.* beyond the maximum of the second class.

54,196. Do you base the claim to have more first class clerks on a comparison with the other departments of the courts?—We do, coupled with the work.

54,197. Will you give us some facts in relation to the departments with which you wish to compare your department as regards the proportion in the different classes?—I can give you the figures. We are relying more on the Central Office. The number of first class clerks there is 11; the number of second class clerks 28; and the number of third class clerks 28, making a total of 67—that is, about 1 in 6.

54,198. What is the proportion in your department?—At present our proportion is 1 in 17, including the Taxing Office.

54,199. (*Mr. Coward.*) No; 1 in 13. There is one first class clerk, 7 second class clerks, and 6 third class clerks, and therefore there is 1 in 13?—But surely you cannot exclude the one first class clerk; you must total the whole.

(*Mr. Coward.*) Then it is 1 in 14.

54,200. (*Chairman.*) In putting it as 1 in 17 are you including the three clerks in the Taxing Department?—Yes, otherwise it is 1 in 14.

54,201. Taking the Bankruptcy Department alone it is 1 in 14?—Yes, eliminating the Taxing Office.

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Mr. C. C. CARTWRIGHT.

[Continued.]

54,202. You submit that that proportion is smaller than in the other departments?—I do.

54,203. And in particular, smaller than in the Central Office, where it is about 1 in 6?—Yes. As regards the other departments it is infinitely smaller.

54,204. Is the work of the clerks to registrars distinctly more responsible and difficult than the work of the other second class clerks?—Undoubtedly.

54,205. Out of seven second class clerks, four are clerks to registrars?—Yes.

54,206. And one is clerk to the judge?—Yes, besides the four.

54,207. What is the nature of the work of the remaining two?—One has charge of the Filing and Record Department. The other is in Room 28, as I call it, for the sake of fixing the man, who takes in the petitions and files them. He is responsible for that, and he has been there a number of years.

54,208. That work is less responsible than the work of the clerks to the registrars?—I do not like to say that, really; but I must admit it, because the registrars' clerks have to examine the petitions after they have been filed for the registrars, so I think I am not saying anything against my colleague in saying that ours is more responsible work.

54,209. (*Mr. Coward.*) What does he do? He takes in a petition and files it?—He examines it.

54,210. (*Chairman.*) You suggest that the senior clerk to the registrars should have a better position than the other clerks to the registrars?—Yes.

54,211. Has he any special work or responsibility to justify discrimination in his favour?—The only thing I can urge in favour of that—I happen to be the senior clerk, so that possibly it might personally affect me or not—is that the senior man is supposed to be (I will not say he is) better up in the work, and as a rule when solicitors come in, as they often do, and want to know any points of practice or procedure, they go to the senior clerk. I think that is a fair observation to make.

54,212. Are there any other points you would like to put forward in support of your claim?—I do not want to keep you if you think you have heard enough; but we do feel that we really have a reasonable case based on the work. May I be permitted to put in an order? I have here a vesting order which has been through our department. It is brought in drawn, and then it comes to us, and we have to go carefully through it. It has been altered in that style. That is not an unusual form of order. (*Producing same.*)

54,213. Is it drawn by a solicitor?—Yes, as you see it, it was originally drawn.

54,214. And you have to go through it and revise it?—We get them to bring the various documents to the office, and we give them an appointment to settle or arrange that they shall come. We do not make an official appointment in the sense that we book it.

54,215. Do you settle this with the solicitor or does it go to the registrar?—As a rule we settle that, and if there is any point on it then it goes to the registrar to settle it; but I may say that we rarely have any points on these orders.

54,216. As a rule the order would be settled between yourself and the solicitor?—Yes, as a rule, but any point on them is taken to the registrar.

54,217. Part of your duties consists of sitting in court when the registrar is sitting?—That is so.

54,218. What do you have to do there?—I was sitting in court this morning. I have to see that the papers are in order, and that proper notices have been given as to discharges, and see that the proper times have been carried out generally. In the case of anything wrong I point it out to the registrar. I swear the debtor who comes to read the transcript of his public

examination of the previous week—the clerk does that. I take notes, if necessary. On discharges one sometimes has to take a long note, because they are not officially taken down by a shorthand writer.

54,219. Do those notes of yours serve as a basis for a subsequent order?—Certainly. My notes on discharges or schemes form the basis, with the registrar's notes too, of the order which I might draw up in court.

54,220. Who draws the order?—We draw the orders. The rule says, if an order of discharge is not drawn up within seven days the registrar shall draw it. The practice seems to have become common now, that in the seven days the solicitors do not draw it, so we draw it.

54,221. You leave the matter for seven days for the solicitor to bring it to you?—Yes, that is what the rule says. A solicitor cannot always stay and attend to the order; he has other work to do, and he might probably come in on the seventh day.

54,222. (*Mr. Coward.*) The whole of the work, practically, of your department is done by the second class clerks to-day. You have only one first class clerk?—That is all.

54,223. So the second class clerks do the work?—We do the work.

54,224. Then the suggestion is that it is work that can be done, and is done, by the second class clerks?—They do it now, yes.

54,225. Then your suggestion is that they are not paid properly for what they do?—I humbly submit that. I think the class of work is such that, to ask that we should go to 500*l.* is not unreasonable. We are not asking that the whole of us should go to 600*l.*

54,226. There would be no possible reason for making more first class clerks if the second class clerks can do the work?—I would not like to answer that by a "yes" or "no," because you might say that a third class clerk could do it really if it came to that—that any clerk could do somebody else's work. I think a man should be paid for the class of work he does.

54,227. The whole of your work is within a very little ambit?—Unfortunately for us it is so; but even then we are only asking to be treated on a similar scale to that on the Common Law side.

54,228. Take this order which you put in: All you do here is to recite the deeds which show the title of the person in whom the property is to be vested, and then there is a very short order at the end: "It is ordered that the property do vest in them"?—Even doing that is a very important part of the work; but it is not limited to that.

54,229. I am only taking the order you show us. We do not want to see any more. I will take it that it is an important order. It has very important consequences for those who are going to be benefited under it; but as to the importance of drawing it, you surely do not suggest to me that that is an important order in the sense that it involves any great amount of legal acumen or skill on your part in drawing it?—I will not put it like that at all.

54,230. (*Mr. Matheson.*) What age were you when you entered the public service at South Kensington?—Originally, 23, as a Civil servant.

54,231. Was that at South Kensington?—I was at South Kensington before I was 20, but I was not a Civil servant then.

54,232. Then at 23 you went to the Customs?—Yes. Before I leave, may I say that Mr. Roper, who is clerk to the judge, has expressly wished me to hand this in to you. He has endorsed it stating what it is, and I shall be very pleased if you will let me do so? (*Handing in documents.*)

Mr. H. J. CARR (Third Class Clerk, Bankruptcy Department), called and examined.

54,233. (*Chairman.*) You are a third class clerk in the Bankruptcy Department?—Yes.

54,234. When did you enter the department?—In November, 1907. I obtained my certificate in December the following month.

54,235. What was your age then?—Twenty-three.

54,236. What work had you done before that?—I was for over nine years with the official solicitor, Mr. Winterbotham, in the Official Solicitor's Department.

54,237. You have heard Mr. Cartwright's evidence on behalf of the second class clerks?—Yes.

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Mr. H. J. CARR.

[Continued.]

54,238. What are the points that you wish to put before the Commission with special reference to the third class?—Mainly this, that we are asking that our maximum salary should be increased to 250*l.* instead of 200*l.* as at present.

54,239. What are the grounds you put forward for that request?—The opportunity for promotion for the majority, in fact all, of the third class clerks is remote, and we ask, as there seems very little prospect of promotion for many, many years, that that increase should be given to us as an alternative scheme. The men who have gone before have all reached the second class and many of our men see no prospect of promotion, or at least not for 20 years.

54,240. You base that unfavourable expectation on the present ages of men in the second class?—Yes, I have a table showing their ages, if you wish to see it.

54,241. The Commission have their ages before them. Can you assign any special cause for that prospective block in promotion? Were the clerks at present in the second class appointed at one time or what was the reason of it?—I believe it happened in this way: In 1884, when the department was taken over, there were a number of men of the same age; they were all comparatively young men. Subsequently they all died or retired within a very short time and the third class clerks succeeded to their positions, with the result that the same thing will happen again as happened in 1884, that is to say, in 20 years' time approximately there will be a number of men retiring, and in the meantime those who are thirds will have no chance at all.

54,242. If the requisition put forward by Mr. Cartwright for an addition to the number of first class clerks were granted, it would to some extent meet the prospective slowness of promotion?—No, not so far as we are concerned, because I do not understand that they ask for these first class clerkships in addition, but merely ask that certain of the second class clerks should be made first class. It would not benefit us at all. It would not make any vacancies.

54,243. It would not create any vacancies in the second class?—No, it is no advantage to us unless it followed that two more second class clerks were made.

54,244. None of the third class clerks have at present reached the maximum of their class?—No.

54,245. So that the difficulty is a prospective one and not an actual one?—Yes, we have no grievance at present.

54,246. Your suggestion is that if promotion is unduly slow the case should be met by increasing the maximum of the third class?—Yes.

54,247. (*Mr. Matheson.*) Did you get any improvement in salary by entering the office?—No, I suffered a decrease at that time of 10*l.* and six months' seniority towards a further 10*l.* That is to say, I was receiving 110*l.* when I entered this department, and I should have received another 10*l.* in another six months, so I lost 18 months by doing so.

54,248. Was your other post a Civil Service post?—Partly so. We were on the temporary staff as personal clerks to the official solicitor, Mr. Winterbotham, who employed us with the concurrence of the Treasury.

54,249. But you were not entitled to pension?—No, that was my reason for leaving partially.

54,250. The pension was an attraction. Was any definite prospect held out to you of promotion?—Yes. That and the pension were my reasons for the change—the prospect of getting, or the hope of getting, a second class clerkship eventually. The former position held out at least the prospect of reaching the maximum of the third class and possibly more.

54,251. (*Mr. Coward.*) Are you an admitted man?—No.

54,252. How long were you with the official solicitor?—Nine years and some months.

54,253. What was your salary when you left?—110*l.*

54,254. I should like you to compare the work that you did with the work you do now. You must be a hard-working man. You must have seen some hard work?—I had to work very hard with the official solicitor.

54,255. Your work now is very very different—I mean in the hardness of the work?—It is different in a way. I had to run about a lot more there.

54,256. And had very long hours?—I could please myself. I always had to work until 6 there, and if I chose to work later I could, but I got nothing extra for it.

54,257. But you generally did stay later?—Once a week.

54,258. If there was work to be done it had to be done; you could not go off at 6 o'clock merely because 6 o'clock had sounded?—No, not always.

54,259. And now your work is very different?—We cannot always go away when we like even now.

54,260. But you can go at 4 o'clock?—Not as a rule.

54,261. At what time do you generally get away?—Between 4 and 5—very often towards 5.

54,262. At what time do you get there in the morning?—10 o'clock.

54,263. With a quarter of an hour's grace?—The book says that the line must be drawn at a quarter past 10, but in practice I may say that grace is not allowed. The chief clerk sits in the room and the book is signed in his presence, and if we are late he tells us of it, for this reason: As you know, the time a petition is presented has to be recorded, and more than one man must guarantee himself to be there in case of illness or accident. If two men come in with two petitions at the same time, trouble will ensue because of the question of costs. It has happened two men came in together. So we are always there at 10 o'clock.

54,264. Somebody is. Now about vacations. What vacations do you get?—We take no vacations. We have so much leave in the year. The office is never closed except on the day following Easter Monday—on the Tuesday.

54,265. What holidays do you have?—Six weeks. May I be allowed to say that the men feel, as an argument in favour of the increased maximum, that all of them have had legal experience before they entered the office. That was a point which I was asked to bring forward. They feel that is an argument in their favour, inasmuch as in days gone by men did not have that experience. Three of the men have been in solicitors' offices.

ONE HUNDRED AND THIRTIETH DAY.

Thursday, 29th April 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN ARROW KEMPE, K.C.B.
Mr. ARTHUR BOUTWOOD.
Mr. JOHN ROBERT CLYNES, M.P.
Mr. CECIL COWARD.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.
Mrs. DEANE STREATFEILD.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. CHARLES WILLIAM KENTISH (Managing Clerk to Messrs. Williamson, Hill & Co.), called and examined.

54,266. (*Chairman*.) You are managing common law clerk with Messrs. Williamson, Hill & Co.?—Yes.

54,267. How long have you served with that firm?—Altogether, just over 40 years.

54,268. What age were you when you went into their service?—About 18.

54,269. Your experience enables you to speak specially with regard to the Central Office, the Taxing Office, and the Bankruptcy Office?—And the Commercial Court, in which we do a lot of work.

54,270. In the first place, as regards the Central Office, the masters at present are all barristers?—Yes, and I do not think you could alter that in any way.

54,271. You think that that system should be maintained?—I think it is absolutely necessary.

54,272. Does your work bring you into contact more with the masters or with the clerical staff?—Principally with the masters. I very seldom have been, lately at any rate, to the offices. To the Order Office or the Writ Office now and again I go.

54,273. Your juniors mostly do that work?—Yes.

54,274. Do you frequently appear before the masters?—Nearly every day.

54,275. Do you think, from your experience, that the present method of recruiting the clerical officers produces the right class of man?—I think so. They all seem to know their business very well. Of course, there is not very much business to know in some offices. For instance, in the Writ Office it is simply looking at the writ, sealing it, putting a number on it, and afterwards entering it into a book.

54,276. When you speak of looking at the writ, does that mean it has to be examined as regards any important points?—To see that the plaintiff's and the defendant's names are in, and the endorsement; not to see whether it is a good endorsement or a bad one, but that there is an endorsement on it.

54,277. If the writ is irregular in some respect, do you expect it to be corrected in the office?—No.

54,278. Or the irregularity to be pointed out?—No.

54,279. Then you consider that their scrutiny merely applies to the form of the writ?—That is all.

54,280. That is not a difficult matter?—There is no difficulty at all about it.

54,281. As regards the other departments of the Central Office, do you consider that the work there is of greater difficulty?—I think probably it is in the Order Office. A man has, I think, to get some experience before he can get into the Order Office. Of course, he would have to get some experience before he went into any office—I mean he would have to learn something. With regard to orders, a man does require some little experience which he would soon pick up. Of course, if he had been in a solicitor's office before, there would be no difficulty; he could almost go into that office straight-away.

54,282. Do you think it desirable that men going into the Central Office should have had experience in a solicitor's office before?—I think so, at any rate with regard to the Order Office.

54,283. If they have not had such experience would they have any difficulty in picking up the work?—It might take them a few months longer, perhaps. Some would pick it up quicker than others.

54,284. But it is work which could be learnt in the office?—Oh, yes.

54,285. Which are the departments of the Central Office where you consider the work is more responsible and difficult?—I should think the most responsible office is probably the Crown Office.

54,286. What about the Associates Department?—You mean the associates who sit in court? They are, of course, in court and take down a note of the judgment when it is delivered—a short note—but, as a rule, if any special terms are endorsed on counsel's brief, they practically only have to copy them into the order.

54,287. Speaking generally, how would you compare the work of the clerks in the Central Office—leaving aside now the junior clerks and speaking of the senior clerks in the Central Office—with the work of a managing clerk in a big solicitor's office?—I think there is hardly any comparison.

54,288. Will you enlarge that opinion a little?—A managing clerk in a solicitor's office has to deal with every kind of dispute, almost.

54,289. (*Mr. Coward*.) Every kind of order?—Every kind of order. He takes statements of witnesses, he has to peruse documents, inspect documents, and they are of a different kind every day; the work is not the same on any one day; he has to have a very large experience and has to be very careful. Whereas, if you go into an office where the orders are drawn up, the only thing you are doing all day is drawing up orders, and they are all more or less the same.

54,290. (*Chairman*.) You would say that the work of a solicitor's managing clerk is much more varied?—Very much more varied.

54,291. And therefore requires a wider extent of knowledge?—Absolutely.

54,292. (*Mr. Coward*.) Would not you say it is more responsible?—Certainly, more responsible as well. There is very little responsibility in these offices, because if a clerk makes a mistake it has to be put right. If a solicitor's clerk makes a mistake in going through correspondence it is a very serious mistake which cannot be put right afterwards, except at great expense to the client, probably.

54,293. (*Chairman*.) How would the Central Office compare with a solicitor's office as regards hours of work, holidays, and so forth?—The hours of work in the Central Office are not very long. The hours in a solicitor's office are very long very often.

54,294. What are your ordinary hours of work?—I get there at 9 o'clock and usually leave at 6, but that means that I very often—once or twice a week—take work home, and that sometimes keeps me up till 1, 2, or 3 o'clock in the morning. I do not say it is often 3 o'clock in the morning, but two or three hours once or twice each week.

54,295. Would those be the usual hours for the whole of the staff?—No; the juniors leave at 6 or half-past 6; it depends upon the work. We close at 6, if we can; but if there is a lot of work to be done, of course, the office has to be kept open.

54,296. For the juniors the ordinary office hours would be 9 to 6?—Yes, except the shorthand writer, perhaps, who would have to stop on, and the typists. The ordinary clerks who go out and do the work during

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Mr. CHARLES WILLIAM KENTISH.

[Continued.]

the day—go to the different offices to issue writs or summonses, or draw orders—leave at 6.

54,297. How do you consider that the scale of pay of the clerks in the Central Office compares with the scale of pay habitually in use in solicitors' offices?—I am not certain that I know what the scale of pay in the Central Office is.

54,298. The clerks are divided into three classes. The pay of the third class begins at 100*l.* a year and rises to 200*l.* by annual increments of 10*l.*; the second class rise from 250*l.* to 400*l.* by annual increments of 15*l.*, and in the first class the pay rises from 500*l.* to 600*l.* by annual increments?—My experience is that a junior clerk in a solicitor's office gets a little more than 100*l.* a year, but not very much.

54,299. He would not get as much as 200*l.*?—Certainly not.

54,300. And the higher posts in the scales I have mentioned would, I suppose, be considerably better paid than the best paid clerks' posts in a solicitor's office?—The first class clerks certainly would be, and I should think in most offices they would not get anything approaching the maximum salary of the second class clerk. They may in some very big offices. There are big offices and small offices. In a small office I do not suppose the managing clerk would get more than 150*l.* or 200*l.* a year, if he got that.

54,301. What is the position in your office as regard pensions? Have the clerks any right to pension?—No.

54,302. As a matter of practice, are pensions ever given?—Yes, I think they are.

54,303. At the present moment are there any pensioners who served formerly in your office?—No, not at the present moment. Some of the clerks have been pensioned at different times, but none are drawing pensions now; they are dead.

54,304. That would be as a matter of grace and not as a matter of right?—Simply as a matter of grace.

54,305. Would it usually be the case that a clerk who had served well for a long time and became past his work would be pensioned?—I think it varies in different offices. Some offices, I think, do it and some do not.

54,306. You could not say that there is any general practice?—I am certain there is no general practice.

54,307. We have been told that there is a provident fund among solicitors' clerks?—There is the Law Clerks' Society.

54,308. Do most of the clerks in your office belong to that society?—I think only about two or three.

54,309. Do you contribute to it personally?—No.

54,310. It is not in very general use among clerks in your profession?—I think a good many have joined since the Insurance Act came in.

54,311. Why has that induced them to join?—Because they get a better pension, and they get more money when they are ill.

54,312. That would apply, I suppose, to the junior clerks with salaries below 160*l.* a year, who are eligible for insurance benefits?—Yes. There are some clerks who have been members for years. I know people who have been members for, perhaps, 20 or 30 years, and, of course, their salaries would be more than 150*l.* a year now.

54,313. Turning now to the Taxing Office, what is your estimate of the work done by the clerks there? Do you consider it better work or more difficult work than that done by the clerks in the Central Office?—It does require a good deal more experience. It would probably take anybody two or three years to pick up the work in the Taxing Office.

54,314. Would a man who had served as a clerk in a solicitor's office be more capable of picking it up quickly?—Very much more so.

54,315. He would have had some experience of the kind of work?—He would have had experience with regard to what we call scale items, and would know a scale item directly he saw it.

54,316. At present the clerks are recruited from the bottom; that is to say, they enter the third class and are promoted to the higher classes in the Taxing Office?—I do not know whether they are first and

second or second and third in the Taxing Office, because very few taxing masters have more than two clerks. I do not recollect any taxing office where there are three.

54,317. The Taxing Office clerks are, as a matter of fact, divided into first, second, and third class, for the purpose of fixing their scales of pay; but I think it is the case, as you say, that two clerks—one higher clerk and one lower clerk—are attached to each taxing master?—That is so. I do not recollect any taxing master who has three clerks. There may be one, but only one.

54,318. The first clerk attached to a taxing master would in some cases be a first class clerk, and in some cases a second class clerk, according to his scale of pay; but probably you, from your contact with them, would not see any distinction between the two?—I do not see any distinction.

54,319. Do you think that there would be an advantage in recruiting the higher clerks in that office from outside, or would the experience of the lower clerks qualify them for the higher work?—I think it would be an advantage to have someone from outside. A solicitor's managing clerk, I think, would make a very good first class clerk. For instance, he knows the work so well and knows all the scales of costs well. That is all they have to do. They have no discretion; they very seldom act as taxing master. Now and again they do, and all they do then is to go through the bill of costs and pick out the scale items, leaving the other items for the taxing master to deal with when the parties come before him.

54,320. Is not that work which third class clerks would have learnt from their experience?—They could learn it, no doubt, but it would take them a long time, I think, if they came from right outside.

54,321. But that is the work that they are doing all the time?—Yes, that is the work that they are doing.

54,322. Do you find that the work of the taxing office is done satisfactorily?—As a whole, yes.

54,323. With expedition and with equity?—Yes, the work is done very well. There is nothing to complain of.

54,324. The taxing masters are, I think, almost without exception solicitors?—I think so.

54,325. Is that the right source from which to appoint taxing masters in your opinion?—I think it would be if they could get anybody with experience. Most of the appointments, I think, have been, lately at any rate, of solicitors with very little experience of costs.

54,326. Why is that?—Because they have never had to deal with them. They have never had to tax bills, probably.

54,327. But they must have had bills taxed?—But they would not tax them themselves. A solicitor very seldom attends to tax a bill of costs in my experience. I have now and again seen a solicitor in attendance, but it is only one with very small work who ever attends and taxes a bill of costs.

54,328. You mean it would be done by the managing clerks?—Always.

54,329. But he would be acquainted with the results of the taxation?—Probably the totals only—how much the bill was made out at, and how much was taxed off the bill.

54,330. He would not go into the details of it?—No, I do not think so.

54,331. What is your inference from that?—My inference is that he has to learn the business.

54,332. I meant rather as regards the source from which taxing masters should be drawn?—I think solicitors' managing clerks would make very good taxing masters, for this reason: A managing clerk in a large office has to take statements of evidence; he knows exactly the difficulties of getting up a case with regard to "Instructions for brief," and an item of that kind.

54,333. (*Mr. Coward.*) That is the only item really?—That is the only item really, and that is a very important item, to solicitors at any rate, on which they should get a proper allowance as "Instructions for brief." It is all very well to be wise after the event. Speaking of a taxing master of any very great experience he says: "Well, you had so many witnesses and "there were so many documents to peruse; I think a

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"fee of 15 or 20 guineas would be ample," but it does not always follow that that is all you do. You have to go and search about for witnesses, and there is the difficulty of getting hold of them. A witness is a very important person when you want him. You have to study him in every way. Sometimes you go and get him straight away, but sometimes you wait two or three hours for him, or go two or three times to see him, and it takes a very long time, which is not taken into account.

54,334. You might perhaps explain that you do not get paid for all that work in getting up the case, which involves going to see witnesses and doing all that class of thing?—That is what I mean.

54,335. That goes into the "Instructions for brief" as one item?—Yes, and a solicitor who has not had experience of that kind does not know really what it is.

54,336. (*Chairman.*) Your suggestion is, that in estimating what would be a proper charge under that head, a managing clerk's experience is more valuable than a solicitor's experience?—Yes, that is what I mean.

54,337. And that, therefore, it would be desirable to select the taxing masters from among managing clerks?—Yes.

54,338. Do you think if that was done the managing clerks appointed taxing masters would command as much confidence and respect?—I think so.

54,339. I am not reflecting on the position of managing clerks, but the solicitor is the principal and the managing clerk is not. You think the managing clerk would command sufficient confidence and respect?—I think so.

54,340. Turning now to the Bankruptcy offices, have you any special observations to make upon them other than those you have offered on the other offices?—The clerks in the Bankruptcy offices are very, very competent men. I do not know where they get them from, but they seem to pick up the work, and it is complicated work, too, in Bankruptcy very often. They are all men who do know their work thoroughly, and they are always willing to help you, too.

54,341. Do you say that the work there is more difficult than the work in the other offices of which you have spoken?—As a rule, I think so. It requires more picking up.

54,342. You find it very well done?—Very well done, and the clerks there are very willing to give you assistance if you require it.

54,343. Do not you find that in the other offices?—I should not like to say. I think you get very fairly dealt with. As a matter of fact, a solicitor's managing clerk knows his work so well that he does not require any assistance.

54,344. (*Mr. Coward.*) Is not the real answer, perhaps, that with Bankruptcy you go there very rarely, comparatively, and you do not know the practice there as well as you do the common law; whereas in common law you are with the masters every day, and many times a day?—I think, probably, that is the best way of putting it.

54,345. (*Chairman.*) For that reason you require more assistance when you have to go to the Bankruptcy offices?—Yes, you require more.

54,346. Do you consider that in any of those offices the staff is more than sufficient?—I am not quite certain that I know how many there are. I think there are about three clerks in each Writ Office to issue writs. I think that is too many.

54,347. Your impression is that there are more clerks than is necessary?—Yes.

54,348. Have you anything to say as regards the hours during which the offices are open? Would there be any advantage in having them open during longer hours?—No, I do not think so. It would be disadvantageous to solicitors and their clerks.

54,349. You prefer that they should be limited to the present hours?—Yes. I think the hours are long enough, and I think they can get through the work in the hours.

54,350. What about the arrangements in vacations? Are those adequate?—I think, with regard to the Taxing Office, that if they kept two masters, say, for about

three weeks after the vacation commenced, there would be some advantage. Cases are tried sometimes, at the assizes at any rate, right up to the end of July, and it generally takes some few days before you can get your bills of costs ready for taxation.

54,351. Have you read the report of the Commission on Delay in the King's Bench?—No.

54,352. You are not familiar with the suggestion that they made in that sense?—No.

54,353. (*Mr. Coward.*) There is difficulty sometimes in getting costs taxed in cases that have been tried at the assizes?—Very great difficulty.

54,354. It sometimes goes over the vacation?—Very often, and you have to go and tell the taxing master that there may be a risk of losing the money.

54,355. (*Chairman.*) In cases of urgency of that sort, can you get the business attended to?—Yes, they would tax a bill then; but as there is only one master, if there are a good many bills to tax, you would not get yours taxed sometimes for perhaps a month.

54,356. The suggestion has been made by one witness that a wider and more liberal interpretation should be given to the term "Vacation business," and that at present the line is drawn somewhat too tightly. Do you agree with that?—I think there is enough scope. I do not think it should be extended in any way. I think there are enough masters. I only ask that the Taxing Office should be kept open a little longer, or, instead of having one master, that there should be two in attendance.

54,357. Another question on which the Commission have had evidence, is that of fixing an age limit for retirement, both in the case of masters and registrars, and also in the case of the clerks. Are you prepared to express an opinion on that question?—I think, with regard to clerks who enter very young, say, at 18, as a third class clerk, he should be at liberty to retire if he likes after 30 years' service, and he should have so much of his salary at 30 years, so much more perhaps at 35, and so much more at 40 years; but I do not think it would be well to fix any hard and fast rule that a man should have to retire at a particular age.

54,358. Have you known any cases of men stopping on when they are past their work?—I do not think I have recently. I have in years gone by.

54,359. Your suggestion that a man should be entitled to retire after 30 years' service may mean that he should be entitled to retire at 48, if he entered at 18?—Yes, but on a reduced retiring pension.

54,360. Is not that rather an early age for a man to have the option of retirement?—I do not know. Supposing a man is not very well, and after he has had 30 years' service may have a little money, he might think, if he could have a very small pension, "I will retire and make room for somebody who can do the work better."

54,361. A man who can obtain a medical certificate that he is incapacitated can retire?—I did not know that.

54,362. The ordinary Civil Service rule is that a man, apart from cases of invalidity, may retire at 60, but must retire at 65 on pension?—I should feel inclined not to fix any particular age.

54,363. Have you any suggestion to make with regard to the Commercial Court?—The only suggestion I should like to make there, would be that they should have somebody appointed who would draw up the orders and issue summonses.

54,364. How is that work done at present?—It is a little bit complicated. When you issue a summons in the Commercial Court, you have to take it to the Summons and Order Department of the Central Office and get the stamp cancelled. Then you have to go to the judge's clerk's room to get an appointment. Sometimes, and it very often happens, the judge's clerk is engaged with the judge. You then have either to wait for perhaps a quarter of an hour or 20 minutes, or, if you have not the time, you go away and come back again, and very often have to wait. If there was one clerk appointed to do the work, he would be always in attendance.

54,365. (*Mr. Coward.*) And in vacation you cannot get a summons at all?—No; and you cannot issue a

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summons in the Commercial Court on Saturdays, because there is no judge's clerk there.

54,366. And the want of ability to issue summonses in vacation is very inconvenient and very troublesome sometimes?—There is no judge. You cannot issue commercial summonses in the vacation at all.

54,367. You cannot issue the summonses at all?—You cannot.

54,368. And I say it works very harshly sometimes, and is very troublesome. Do you agree with me?—Yes, I do agree with you.

54,369. (Chairman.) How does that differ from the procedure in the other courts. You say, with regard to the Commercial Court, if you want to take out a summons for directions you have to go to the Central Office first to get the stamp cancelled, and then you have to get an appointment?—Yes, you have to go to the judge's clerk.

54,370. What have you to do in another court?—If you issue a summons for directions you simply go to the clerk who cancels the stamp and he puts it in the list at once.

54,371. The difficulty is that in the Commercial Court you have to go to another clerk to get your appointment?—Yes, with the result that sometimes the clerk is in court with the judge and you have to wait for him.

54,372. (Mr. Coward.) The reason is because the Commercial judge deals with his own summonses?—Yes.

54,373. (Chairman.) He deals with his own summonses and has a separate list of them?—Yes, there is a separate list.

54,374. Then your suggestion is that the summons should be taken out with the clerk who gives the appointment?—Yes.

54,375. That would be a departure from the system which prevails all round in the Supreme Court of taking out your summonses in one office?—In the case of the Central Office before the master you take it out in one office, but in the case of the Commercial Court you have to go to two offices. You first go to the Central Office and get your stamp cancelled and leave a copy, and then you have to go to the judge's clerk to get a day appointed for the hearing of the summons. That clerk could draw up the orders; he would be always there, and would be there on Saturdays and all day long, and if you wanted to issue a summons you would be certain to find him there and would not be delayed. It might happen two or three times that you might say, "I will come back in a few minutes," and you go back, and the clerk has been back and gone somewhere else. I am not saying they keep out of the way purposely, but they have duties to perform for the judge which necessarily take them away from the room.

54,376. Would your junior clerks, if they had the chance, all be glad to get an appointment in one of the offices of the court?—I think so.

54,377. They would regard that as an improvement in their position?—Yes, the work is not so hard.

54,378. (Mr. Coward.) The vacations are longer?—The vacations are longer and the berth, as long as they behave themselves, is there for them.

54,379. (Mr. Graham Wallas.) The more mechanical work of the office is confined to a few rush hours when the business comes in?—In the Writ Office I should think the hardest time is from 2 to 4, when they have more writs to issue than at any other part of the day.

54,380. Supposing this were a private office and you had to deal with a rush of work of that kind during two hours of the day and had the staff which is there, do you think you could arrange that that work should be run off rather more rapidly than it is at present?—I do not think so, because they have nothing to do until they have issued a writ. They might have 20 or 30 come in just at ten minutes to 4.

54,381. But could not you turn the whole staff on to it for a couple of hours?—You could, but you have to put a number on to each writ and there is only one list of numbers.

54,382. But if you were doing it in a solicitor's office you could get over that difficulty by one man number-

ing from one hundred and another numbering from another hundred?—I dare say, but supposing they had 20 or 30 writs coming in at ten minutes to 4, it would only take them to twenty minutes or half-past 4 to complete the whole of the work, and they would shut the door at 4 o'clock and let no one else in.

54,383. Would it be convenient to the public that the purely mechanical work should be done as quickly as possible so that nobody should be kept waiting, and the door never shut on rows of people waiting?—I do not think you will ever find anybody waiting. Now and again at five minutes to 4 there might be a rush, but I do not see how you can help that.

54,384. Supposing you were organising a big private office, consisting of various kinds of work, some of which had to be done practically between 2 and 4, and some other which could be put off, do not you think you could arrange to fill a rather longer day than is usual in the Central Office?—I dare say you might in a private office, but I doubt whether you could in a public office like the Supreme Court.

54,385. Do you in your own office use typing very much for important documents?—Yes.

54,386. Which do you believe to be on the whole the more satisfactory, a typed document or a written document?—A typed document.

54,387. It is easier to read, is it not?—Yes.

54,388. And easier to detect mistakes?—Yes, and generally it is more correct.

54,389. Because a man copying with a machine copies more correctly?—Yes, I think so.

54,390. Do you see any reason why the documents in the Central Office should not be typed more largely than they are at present?—No, none at all.

54,391. Do you believe that there is a greater possibility of fraudulent changes in documents in the case of typing than in the case of written documents?—I do not think so—I have never considered it, but I do not see why there should be.

54,392. In your précis you tell us that in cases of inefficiency it is rather difficult for the profession to complain. If you notice that a clerk or anybody else is inefficient it is not quite your business to complain to anybody. Do you feel that?—Yes, I do feel that.

54,393. Do you think it would be an improvement in the Central Office if some experienced and able clerk were made what is called in other offices chief clerk; that is to say, it should be his main business to manage the discipline of the office, to report upon everybody's efficiency, and prevent any case of inefficiency occurring or remaining?—It could be done, but I do not know that there would be very much benefit from it. I do not think he would be able to detect inefficiency very well unless it was pointed out to him.

54,394. Supposing you were appointed to such a post with your long experience of governing men, do not you think if it was your main business to see that nobody in an office was inefficient, you would in the course of a year or two be pretty sure on that point?—I should not like to have to do it, and I doubt whether it could be done really; it can be only the public who can find out these things, because the man would be quite efficient when this chief clerk went round to look and see what he was doing; he would know him and would say, "Now I must do my work well."

54,395. I should have thought the resources of civilisation were not exhausted of the ways of finding it out?—I do not suppose they are, but I think it would be very difficult.

54,396. About what proportion do you think of experienced managing clerks in London are solicitors?—I do not think I could tell you.

54,397. (Mr. Coward.) You would have to discriminate between Common Law and Chancery for that?—I should have to.

54,398. There are many more in Chancery than in Common Law?—Yes.

54,399. (Mr. Graham Wallas.) Do you think, if the Government desired to appoint managing clerks to some important posts, but said that the Government would only do so in case they were solicitors, they would be leaving out, as possible candidates, some of the very best men?—I think they would.

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54,400. Do you think the question whether a man is a solicitor or not is, in the position of a managing clerk, any indication of his professional ability?—I do not think so.

54,401. In other Government offices the more mechanical work is done by a set of people who are appointed very young, and expect to be kept at the more mechanical work all their lives, and learn to do it more quickly and more promptly. The higher work is done by people starting rather later and with rather better education?—Yes.

54,402. Do you think that would be a good principle to adopt in the Central Office?—I think so.

54,403. That, as a rule, the first class clerks should be admitted at a later age with rather more extended education?—I think so.

54,404. Instead of passing 10 years as third class clerks?—Yes, all the work in these offices is more or less mechanical, and while they are engaged in one office they do not learn the duties of another.

54,405. And a man who is kept for 10 years at purely mechanical work is apt to be unfitted for the higher work requiring judgment afterwards?—I do not know that that would be so in every case, of course, but in the majority of cases I should think so.

54,406. (*Mr. Coward.*) I should like to ask you a question with regard to the work that is done in the Central Office, if you will be kind enough to tell us about it. The first thing you do at the commencement of an action is to issue the writ?—Yes.

54,407. Where is the writ prepared?—In the solicitor's office.

54,408. What do you do with it then? Do you send it up by a boy to the Central Office?—Yes.

54,409. What happens next?—The first thing he has to do is to get a 10s. stamp impressed upon it.

54,410. He goes to one pigeon-hole and gets that done?—Yes, and then he goes upstairs to the division out of which it is to be issued, whether A to K or any other part of the alphabet; he simply lays it on the table, the clerk takes it up and just looks at it, turns it over, and he has a lot of numbers in rotation at the side, and he simply strikes that number out, puts it in the writ, and seals it.

54,411. That is the number of the action?—Yes.

54,412. And that number goes through the action?—Yes.

54,413. What has the clerk in the department to do with that writ? He will seal it?—He seals it, that is all.

54,414. He has got nothing to do with what is the claim on the writ nor anything of that kind?—Nothing whatever.

54,415. Nor anything to exercise any judgment upon?—No judgment at all.

54,416. (*Chairman.*) I thought you told us he had to see it was in proper form?—They will not issue a writ in the name of, say, C. W. Kentish; they would want one christian name if they could not get the two. That is all he has to look at. He has to look at the bottom of it to see whether or not the plaintiff's address is put in at the end. That is the only thing he looks at.

54,417. (*Mr. Coward.*) There is nothing to be done?—Absolutely nothing you could not pick up in five minutes.

54,418. Now go to the next step: Supposing you are acting for a defendant, and at the expiration of eight days you have to enter an appearance, what do you do?—We fill up a form in the solicitor's office. My junior would fill up the form with the names.

54,419. Your boy would do it, I suppose?—Yes, he would simply fill in the names of the plaintiff and the defendant, enter an appearance for the defendant, put a date in, take it up to the Stamp Office, have a 2s. stamp put on for each defendant, take it to the appearance office, and the clerk takes down the writ-book and simply enters that So-and-so have appeared for the defendant. He then seals one of the notices of appearance and gives it back to him.

54,420. What is the matter of difficulty about that as far as the clerk in the Central Office is concerned?—There is absolutely none, and I never could see why the

man who issues the writ should not also enter the appearance.

54,421. The next thing is your summons for directions?—Yes.

54,422. What do you do with that?—The summons for directions is filled up in our office. We take it up and put a 10s. stamp upon it.

54,423. By a boy again?—By a boy again. He takes it to the office where you issue summonses, and the clerk there who has a list in front of him puts the name of So-and-so v. So-and-so. He has a book with 11 o'clock summonses in it, and when the 11 o'clock book is full up he goes to the 12 o'clock book. He puts down the number of the summons and "11 o'clock, Thursday, 16th May," or whatever it may be.

54,424. Is there anything in all that?—Absolutely nothing. You could get a boy straight away from school to do it.

54,425. Now the next step. That summons goes before the master?—Yes, it goes before the master.

54,426. The master makes an order?—Yes, on the original summonses, which he gives you back. You take it back to the City and we ourselves draw up the order that the master has made. That is taken up to the Order Department and the same thing is gone through.

54,427. What is the trouble about that further than to see that the order you have drawn up accords with the order which the master has signed?—That is all.

54,428. That is not a very troublesome proceeding?—Not a very troublesome thing.

54,429. Is there any trouble about it at all?—Absolutely none.

54,430. Or any difficulty of any sort or kind?—No difficulty of any sort or kind.

54,431. The last step is that the case goes to trial?—Yes.

54,432. Either before a judge alone or before a judge and jury?—You enter the action with the associate. You tie up the pleadings in book form and take them there with a 2l. stamp on, and the clerk in the Associates' Department takes it in and enters it in the list. He does nothing more than that; he never looks at the pleadings.

54,433. Is there any trouble about that?—No trouble at all.

54,434. You go to trial, the trial is over, and judgment is given?—Yes.

54,435. If it is tried before a jury there is the certificate of the associate to be obtained?—Also when it is before a judge, you get a certificate. The associate gives the certificate and writes down what the jury find.

54,436. The questions put and the answers the jury have given?—Yes, if there are any.

54,437. Sometimes it is only verdict for the plaintiff or defendant?—Yes.

54,438. Then what happens?—We get that from the Associates' Department and take it back and draw up a judgment in our office. Again the same thing is gone through; we get a stamp put on and the boy takes it up and takes it into the Judgment Department; they seal it and you give it to them.

54,439. Now we have gone through the whole process?—That is the whole process.

54,440. What is the matter of difficulty requiring such extraordinary skill and knowledge on the part of anybody in the Central Office who has to do that work so far?—I have never been able to find out what the skill or knowledge required was.

54,441. Of course, the master who hears these summonses and make orders upon them is doing very different work?—Very different. He must be a lawyer, and he must have a good knowledge of law.

54,442. Is there anything in the Central Office that we have been discussing now that could not be learnt in a very short time by a man who had been in a solicitor's office for five years?—I should think he would be able to do it straight away.

54,443. Now, as to the Taxing Office. The master who taxes the costs has one very responsible and difficult duty to perform, because there is such a thing as having briefs prepared by people who are not too skilful, and who perhaps make far more of it than they

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need. Is that right?—That is right. They put in a lot of padding which is unnecessary.

54,444. I did not like to call it padding. The taxing master, if he is efficient, would perhaps deal with that a little with the pruning hook?—In this way. If I had to tax a bill which was sent to me, and I found in the bill of costs of a simple action that a solicitor had drawn a brief of 300 or 400 folios, I should want to know what was in it, and I should ask the master to go through and look at it and see whether it was a proper one, because I should not be able to conceive that 300 or 400 folios were necessary to tell the story.

54,445. There the taxing master no doubt has to exercise considerable discretion, and also as to the documents that he allows to be copied and delivered?—Quite so.

54,446. Because that acts and re-acts; if you have many documents delivered to counsel you have to pay many more fees?—Quite so.

54,447. Therefore the taxing master himself has a very serious responsibility to perform when he comes to that item?—Very serious.

54,448. But, up to the point of the determination of those questions, you want somebody to go through the bill. All the items in a bill of costs, other than that class of item, are all scale charges?—Absolutely.

54,449. Somebody who knows that business can very soon determine what they are?—Quite so.

54,450. I do not mind admitting to you that you would know far more what are the scale charges than I should, but when it comes to the other point—that is, the determination of how much is to be allowed—I should not allow my judgment to bow down to you?—Quite so. I do not think I should ask you to, either.

54,451. Is there anything that is done in the taxing master's office before the master has to exercise that discretion that really calls for any serious knowledge or experience?—I do not think so. Of course, the clerk who goes through it ticks off the scale items, and the master sees the ticks, and knows that he need not deal with them. There is a query put against "Instructions for brief" as to the length of it, and the documents. Then the witnesses are an important matter.

54,452. You would agree that the real serious matter on the taxation of a bill of costs is that which the master has to do in order to do justice between the parties?—Quite so.

54,453. It had to be left to him, and he does it?—Yes.

54,454. You were asked about typing. It would be an immense advantage to everybody, would it not, if everything were typed?—I think so.

54,455. I do not know whether I was right in thinking that you were rather smiling at the suggestion of fraud?—I was.

54,456. You think it would be absurd?—I think so.

54,457. (*Chairman.*) In your précis you mention that "all difficult questions are taken to Mr. Stringer." From your answers to Mr. Coward I rather gathered that you think there are no difficult questions. What are the difficult questions to which you refer in that passage in your précis?—Sometimes orders for particulars are rather difficult to draw up and sometimes orders made by the judge are rather difficult to interpret. Then very often we go to Mr. Townesend to assist us. We take all drafts to him to see whether he agrees that that was the order made by the judge. There may be some little question of practice which Mr. Stringer deals with.

54,458. Questions of the interpretation or the application of the Rules of Court?—Yes, of the rules.

54,459. On questions of that kind Mr. Stringer would be an authority?—We should go to Mr. Stringer on any difficulty arising on any order. It does not often arise. I do not have one difficulty, perhaps, arise in two or three years. Then I should go to Mr. Townesend.

54,460. (*Miss Haldane.*) About what age do the lads come into your own office?—About 14.

54,461. Immediately they leave school?—Immediately they leave school.

54,462. Then do they carry on their education in any way after that time?—I think some of them may go to night schools, and, perhaps, they might go to shorthand or typewriting classes.

54,463. You do not urge them to do so or take any steps in the matter?—No.

54,464. I suppose you would say that the third class clerks might come in much younger than they do at present?—Very much. They might come in at about 16, I should think, or between that and 18.

54,465. About the close of their secondary course of education, you mean?—Yes.

54,466. (*Sir John Kempe.*) You know that the clerks in the Supreme Court are all on the same scale in the different branches, except that here and there some addition is given. There are three classes all on the same scale?—Yes.

54,467. The work of the different branches is very different in the degree of difficulty, is it not?—I do not know that there is any difference.

54,468. Is not Chancery different?—I have never had to do any Chancery work, and I could not say.

54,469. So far as you are aware is the plan of the same scale for all the different branches of the work a fair one? Do you think that the clerical class is not so varied that the same scale would not cover it?—I think so.

54,470. In your own office now, I suppose, you deal with different classes of work. You do not have Chancery work?—I do not have Chancery, but I do Common Law, Divorce, Bankruptcy, Admiralty, and Commercial work.

54,471. Do not you vary the scale of salary paid to your clerks who deal with these different branches or do they have the same kind of salary?—The juniors probably get a rising salary each year.

54,472. With no reference to the particular class of work they do?—No.

54,473. You do not have a Chancery branch and a Common Law branch?—We have a Chancery branch in our office.

54,474. But you do not pay them any higher?—No.

54,475. If you had a managing clerk in each branch would he get a different salary?—I do not think so. Sometimes I think Chancery clerks would get a higher salary, but I do not think it will continue very long because the Chancery work is falling off very much.

54,476. (*Mr. Graham Wallas.*) Do you think that a rather larger use might be made of the Post Office in legal business and that more or less formal work could be done by sending in documents through the post instead of delivering them through solicitors' clerks?—I think we do utilise the post a good deal, although, perhaps, under the rules, we are not entitled to do it. Our business in the City is with very few firms, and we invariably send summonses by post because we do not object to receiving them. If we have a firm in regard to whom we do not know whether they would like it or not, or would take objection to it, we serve them personally, but as our business is principally in the City we send the summonses by post.

54,477. Supposing it was more the custom than at present to send documents by post to the Central Office, and the Central Office used the post in replying to you as other departments do, do you think it would be in some cases a convenience?—Instead of taking the papers up?

54,478. Yes?—We want it done at once if we issue a writ.

54,479. But there is a post every hour in the City?—I do not think there is now. The clerk goes up and perhaps he has to issue a couple of writs, and he may have to enter two or three appearances at the same time and issue a summons or two and draw up an order. We send them up when ready. We get them ready in the morning, and that is why there is more work in the Central Office, as a rule, in the afternoon, because, in the case of solicitors in the City, the orders made the day before are drawn up the next day, and as a rule they are prepared in the office in the morning and taken up to the Courts in the afternoon.

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MR. CHARLES WILLIAM KENTISH.

[Continued.]

54,480. You think that in the case of solicitors whose offices are near the Courts the present arrangement of sending in documents by messengers is the best?—I think so. I do not think the post would do.

54,481. Do you think that, in the case of solicitors not so conveniently situated, it might be an advantage if they were allowed to use the post?—I do not think so. The chances are that if you posted something in the City at 12 o'clock it might reach there by 3 or 4, and you would not get it back the same day when you want to use it. When we issue a writ we get it served as quickly as we can.

54,482. (*Chairman.*) In the case of putting in an appearance that would not apply?—No, because you must enter the appearance on the last day, otherwise judgment might be signed against you the next morning.

54,483. But you can put in an appearance before the last day if you like?—You can.

Mr. LEONARD SARTORIS (Superintendent of the Royal Courts of Justice Staff), called and examined.

54,488. (*Chairman.*) You are the Superintendent of the Royal Courts of Justice Staff?—I am.

54,489. How long have you held that post?—Since February 1894.

54,490. What had been your experience before that?—I was a civil engineer.

54,491. You had not been in the Government service before?—No.

54,492. What are the duties of your post?—I have the general supervision and entire responsibility attaching to the various duties of the staff. A reference made to me in connection with any complaint arising in the building has to be dealt with by me, and, in fact, the duties are very numerous. Anything arising in connection with the conduct of the staff or the building is referred to me.

54,493. We have before us a paper which, I think, you have supplied, headed "Regulations for the Royal Courts of Justice Staff." It is stated at the beginning of the paper that the staff is for the purpose of keeping order, and the care, cleaning, and other incidental requirements of the Royal Courts of Justice (including the High Court Offices in Bankruptcy Buildings). That, I suppose, we may take as a general description of the work of the staff?—That is so.

54,494. You have two assistant superintendents to assist you?—Yes.

54,495. I understand there are 44 first class attendants; 127 second class attendants; 2 boy messengers; and also 4 female attendants?—That is so.

54,496. What is the scale of pay of the first class attendants?—The first class attendants get 100*l.* a year?

54,497. The first class attendants include the ushers of the court and certain principal attendants?—Yes; the principal attendants are as stated in the regulations. For instance, the two night foremen and the stationery storekeepers count as first class attendants.

54,498. They receive some allowance in addition to their ordinary pay?—They receive 140*l.* a year, rising by increments of 10*l.*

54,499. What is the scale of pay of the second class attendants?—The second class attendants on appointment start at 24*s.* a week, rising by 2*s.* a week a year to 30*s.* After nine years' service they rise a further 1*s.* a week a year to 35*s.*, the maximum. That is in the event of their report sheets being perfectly clear of any records.

54,500. What is the arrangement as regards the appointment of attendants?—The general appointment is made by the Lord Chancellor, with the exception of those as stated in the regulations. That is to say, the Lord Chief Justice appoints to vacancies in the King's Bench Division; the Master of the Rolls in the Court of Appeal alternating with the Lord Chancellor, and the President of the Probate Division in that division.

54,501. Then which are the posts to which the Lord Chancellor appoints?—Practically the whole of the second class attendants and the first class attendants, with the exception of those stated in the regulations.

54,484. Would not it be a convenience to do that by post?—I do not think so. We are there every day.

54,485. (*Mr. Coward.*) You would not like to trust it?—Not in the post. Supposing something went wrong with it—things do go wrong in the post occasionally. Supposing you posted an appearance to the Central Office and it went wrong?

54,486. Put it into a wrong envelope?—Yes, or something happened to it.

54,487. You might get into great trouble?—You might have judgment signed against you, and you would have to set it aside and have to do that at your own cost. I do not think it would do, and I do not think it would facilitate the work at all, because the clerks at the Central Office would have to address the envelopes, and it would put a good deal more work on them, although I do not think they would be overworked then. The postage would also have to be provided for.

54,502. When you speak of the Lord Chief Justice and the Presidents of the different divisions having the power of appointment, does that refer only to promotions from second to first class?—Only to promotions from second to first class.

54,503. I see it is stated in the printed regulations that each vacancy caused by the promotion by the President of a second class attendant shall be filled by the appointment by such President of a new second class attendant. Is that the practice?—That is the practice.

54,504. So that in some cases the Presidents do appoint the second class attendants?—Yes, with a vacancy occurring. They promote from the second class to the first, and fill the vacancy caused by the promotion by appointing a new second class attendant.

54,505. Then the occasion on which the Lord Chancellor appoints a second class attendant is when the promotion has been made by the Lord Chancellor which creates the vacancy?—Or vacancies among the second class attendants without any promotion.

54,506. Does that mean that in practice the greater part of the appointments are made by the Lord Chancellor, or by the other authorities?—By far the greater part are made by the Lord Chancellor.

54,507. From whom are the attendants generally selected?—From among ex-soldiers.

54,508. Will you give us some figures to show what proportion of them are ex-soldiers?—I know the present proportion is about 60 per cent. of the whole staff.

54,509. Is it the case that in the last 10 years out of 73 appointments, 61 have been ex-soldiers, 4 ex-Royal Navy men, and 8 men who have not served either in the Army or the Navy?—Yes, that is correct.

54,510. So that with very few exceptions the men are ex-soldiers or ex-Royal Navy men?—That is so.

54,511. Are many of them pensioners?—Among the present members of the staff there are 15 ex-soldiers, 1 Navy man, 1 marine, and 1 metropolitan policeman who are pensioners—total, 18.

54,512. 18 only out of a total of 171?—Yes.

54,513. Are the attendants pensionable?—No.

54,514. Is there any age limit for their retirement?—65 is the age at which they retire, subject to a report from me to the Lord Chancellor as to the possibility of their staying on. It is not actually fixed at 65; that is to say, on a favourable report the Lord Chancellor can authorise me to keep them on another five years.

54,515. Seventy is the final limit?—Yes.

54,516. I see you have at the present moment a certain number of attendants who are over 70. Is that owing to the war?—That is owing to pressure. They are practically only temporary attendants now. They would have retired before had not the war occurred.

54,517. What happens to them when they retire?—They receive a retiring gratuity.

54,518. A gratuity calculated at what rate?—One week's pay per year of service.

54,519. But that does not amount to very much?—No.

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Mr. LEONARD SARTORIS.

[Continued.]

54,520. Have you found hard cases arising from the retirement of men at the age of 65 or 70?—Occasionally, but not usually.

54,521. What means of maintenance have they usually?—We have a pension fund of our own.

54,522. Have you a contributory pension fund?—Yes.

54,523. Do all belong to that?—Not all, but by far the greater number.

54,524. What is the basis of that?—It is a contribution per week out of their wages, and subscriptions from outside provided by the judges and members of the Bar.

54,525. What is the amount of contribution?—I think now it is 3*d.* per week.

54,526. Does that fund work satisfactorily?—Yes. It is entirely the fund of the men; it has nothing to do with any Government support whatever.

54,527. It has no Government assistance?—None whatever.

54,528. What sort of pension does a man get from that fund?—On the last actuarial calculation I think it worked out at 7*s.* a week.

54,529. What are the limits of age for the appointment of attendants?—22 to 40; and for ex-soldiers 45.

54,530. What is the usual age for appointment in the case of ex-soldiers?—If I can obtain them, I prefer them between 20 and 30.

54,531. Do you find that the ex-soldiers and sailors perform the work satisfactorily?—Yes, under the supervision that there is.

54,532. Are you in favour of continuing that system of appointment?—Yes.

54,533. You find that the results are satisfactory as regards the performance of the work?—Quite.

54,534. What is the scale of pay of the female attendants?—They have a guinea a week, with a gown and working dress.

54,535. That is a fixed amount?—Yes.

54,536. Speaking generally, you think the present system of appointment and control works satisfactorily?—I do.

54,537. You have no alterations to suggest?—No.

54,538. (*Sir John Kempe.*) I see in the regulations that you attend to all the cleaning not undertaken by the Office of Works. Do they do the whole of the fabric cleaning?—Yes, all the skilled work.

54,539. What about the dusting?—The Office of Works do not do that. Our men do it all.

54,540. (*Miss Haldane.*) With regard to the mode of selection, how do the men get on the waiting list?—They write to the permanent secretary at the Lord Chancellor's office and ask to be put on the list of candidates for employment. They then receive a reply directing them to call on me. Then I examine them as to their qualifications, and report again to the Lord Chancellor.

54,541. Do they know when there are vacancies, or do they write simply on chance?—Simply on chance.

54,542. So that you never advertise a vacancy?—Never.

54,543. You say as to the distribution of patronage, "No difficulties actually arise from present system, but they might." What does that mean?—I mean that in the event of an appointing authority having some particular nomination that he wishes to put forward it might not be the sort of man who would be suitable for the work.

54,544. What do you think would be the best mode of getting over that difficulty?—The present mode works perfectly well. I may say that it has not occurred for a number of years. It occurred once in the time of Lord Russell, the Lord Chief Justice, when I had to explain that a man was not entirely satisfactory; but, as a rule, the present system of keeping a list and putting forward the names of the candidates to the different appointing authorities works satisfactorily.

54,545. That is to say, you do that?—Yes, I do that.

54,546. You examine the candidates?—Every one.

54,547. Then do you get their records, and so on?—Yes, everything connected with them.

54,548. And I suppose in the case of soldiers and sailors you have their records?—Yes, their service

records; and further, if I possibly can, I write to the commanding officer and get any private information I am able to.

54,549. But you feel that it is possible for the appointing authority to appoint disregarding this waiting list?—Yes.

54,550. And it is occasionally done?—It has not been done for 12 to 14 years to the best of my recollection. It is a little difficult for me to remember, but I have cases in my mind. But it never occurs now.

54,551. Then with regard to the women, are they appointed on the same principle?—On the same principle, by the Lord Chancellor.

54,552. That is to say, they apply to the Lord Chancellor's permanent secretary, and then the candidates are sent down to you?—Yes, and I report on them. The vacancies for women are very rare, I have only had two during the time I have been there.

54,553. Are they usually widows?—Two have been widows. One, who is there now, is a spinster. We still have one to appoint. There is a vacancy now, but by arrangement it is being kept open against the possibility of the widow of some deserving attendant who may be killed in the war. We have a number who are serving, of course.

54,554. Do the women come under the pension scheme also?—No.

54,555. They are not allowed to contribute to the fund?—No, they do not contribute.

54,556. Of course they would come under the National Insurance Act—naturally they must?—Yes, the whole staff does that.

54,557. (*Mrs. Deane Streetfeild.*) What sort of qualifications do you consider are necessary for the attendants? Have you any particular qualifications for the attendants?—That they should be strong (they have a medical examination) and intelligent, capable of doing what they are told to do, and that qualification which is a little difficult to describe—general fitness.

54,558. What age are they generally?—22 to 40 for non-soldiers and 45 for ex-soldiers.

54,559. Have you any age limit for the women?—None.

54,560. Do you require the same sort of qualifications?—In the case of women they are fit as long as they are strong and clear-headed and can attend to witnesses who faint and become hysterical, which does occur occasionally.

54,561. Is that the sort of duty they are called upon to carry out?—That is so. If a witness becomes hysterical she is taken down to the female witnesses' room and looked after by one of the female attendants.

54,562. What age are the women attendants?—The age of the present ones I am not quite sure about; but I do not think there is one over 60.

54,563. Are they eligible for the Old Age Pension?—I am not sure.

54,564. Do you know what becomes of them when they leave?—At present there has been only one who has retired since I have been there, and that was on a pension because she came from the old courts at Westminster, but it is a very small pension. She was appointed before this staff was created.

54,565. Is there any particular reason why they should not contribute to the pension scheme?—No, none. I think they might if they liked.

54,566. It is a voluntary thing?—Quite.

54,567. (*Chairman.*) You did not mention good character as one of the requirements, but I suppose it is?—Yes, I can get at that.

54,568. Sobriety, and so on?—By personal inquiry one can get at that very well.

54,569. (*Mr. Graham Wallas.*) Are there any charwomen doing the cleaning in the offices at all, or is all the cleaning done by men?—It is all done by men.

54,570. Do you find that satisfactory?—Quite.

54,571. Supposing, instead of reporting your recommendation to a high judicial official who changes from time to time, there was a general committee of appointment in the Law Courts having continuous familiarity with the problem to whom you could recommend, do

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[Continued.]

you think that that might be a safer and more satisfactory plan?—I should hardly say that it possessed any advantage over the present system. Personally, I should not mind as long as I got the right men.

54,572. (*Mr. Boutwood.*) When you were speaking of these pensions, you used the word "actuarial." Sometimes, an actuarial estimate is one thing and an actual pension is another. Are there any pensions at present being paid?—Yes.

Mr. THOMAS MILLIKIN (Third Class Clerk, Chancery Registrars' Office), called and examined.

54,575. (*Chairman.*) You are a third class clerk in the office of the Chancery Registrars?—Yes, and here is my appointment if I may hand it in. I have served 26 years in June next.

54,576. You were appointed by the Lord Chancellor?—I was.

54,577. What had been your experience before you were appointed?—I was for 13½ years in various solicitors' offices; latterly as a managing clerk for three and a half years before I was appointed, by reason, no doubt, of that letter, which I may ask you to read, which was sent to me by Mr. Hawkins, who was then termed a chief clerk (now master). I was temporary clerk, 30 years ago, in October 1885, when the Lord Chancellor appointed me, with the sanction of her then Majesty Queen Victoria's Treasury, at 3*l.* a week, and I went through the whole of a vacation.

54,578. A temporary clerk in which office?—Master Hawkins's Chambers; then Mr. Justice Chitty's Chancery Chambers in October 1885.

54,579. What is the point you wish to put before the Commission with regard to the position of the third class clerks?—If I may limit the number to the elders, it is on behalf of three of my colleagues and myself. The reason for that I will give you presently, or I will give it at once if you prefer it.

54,580. You speak on behalf of three members of the class, and not on behalf of the whole class?—That is so, because the remainder have been so recently appointed that I cannot give evidence as to their qualifications or how they were appointed.

54,581. What is the point you wish to put before us?—The point is this: My colleagues and myself have had a legal training, having been in solicitors' offices for a great number of years, and were appointed many years ago with the idea of promotion, having had that legal training.

54,582. That is to say, you thought you were improving your position by accepting this appointment?—I had 160*l.* a year myself as a managing clerk, and I forfeited 60*l.* a year to take this position in 1889. My colleagues, similarly, were solicitors' clerks of experience, and for some unknown reason we have been overlooked, and the younger members who have come in in the last 15 years through some wonderful influence, or perhaps some predilection of the officers under whose control they were, have been transferred to chambers in less than ten years, and, notwithstanding the service of myself and my colleagues of 26 and 29 years, they have been promoted to second class and first class clerks.

54,583. First of all, as regards the department itself; You knew when you were appointed that you had no prospects of promotion in that department?—That is a very poignant question. I humbly submit that, being a married man then getting 160*l.* a year as managing clerk, I did not forgo 60*l.* a year without I had prospects of promotion. In fact, I told Sir Kenneth Muir Mackenzie at the time what I was losing, and he said, "Of course, I am in hopes of a man like you being "in a better position."

54,584. But in the Chancery Registrars' Office itself you knew there were no prospects of promotion to the superior classes in the office?—No.

54,585. Did you, when you entered, know that you had no prospects of promotion in the Chancery Registrars' Office?—Absolutely.

54,586. Then what was the prospect of promotion that you say you had when you entered?—Of trans-

54,573. What are they? Are they 7*s.* a week?—I could not tell you off-hand. The secretary of the fund is one of the ushers in the Probate, Divorce, and Admiralty Division, a very clear-headed man, and he practically runs the whole scheme with any assistance that I, or other members of the committee, may be able to give him in the matter of advice.

54,574. You do not know what the actual pensions at present are?—No, not straight off.

54,587. But you knew it was a *cul de sac*?—True.

54,588. What is your point about that: that others have been appointed to other departments of the Supreme Court and you have not?—That would be rather personal. I would speak generally.

54,589. I want to hear what your case is?—In answering your question I would say that, in view of the fact that these younger members could not have had the experience of we older ones, it was most unfair to us that they should be transferred as third class clerks to a department where there was undoubtedly promotion to be had.

54,590. In a former answer on that point you mentioned influence. Have you any facts to put forward in support of that suggestion?—It would be somewhat invidious, and I am rather disinclined to mention names at all. I humbly submit that the permanent secretary has been the great influence in regard to these younger members, ignoring these older ones. When we have applied we have had the stereotyped reply that there is no proposal of a transfer to be made at present, or some such letter as that; and in a month or two a young man, who possibly has not been two or three years in our department, has suddenly disappeared, and he is in chambers, and, forsooth, a second class clerk in a few years, with no experience of the law, and never having seen the inside of a solicitor's office.

54,591. Can you say how many transfers there have been since you entered the office?—In the last 15 years about a dozen.

54,592. To which department have they been transferred mostly?—The majority to the Chancery Chambers, one to the Court of Criminal Appeal, two to the Associates' Department, and two to the Taxing Office.

54,593. Is it the case that the greater number of the third class clerks in Chancery Chambers have been transferred from the third class in the Registrars' Office?—I do not say that, because I have been 40 years next January in the legal profession, and when I was a solicitor's clerk I had an opportunity of meeting a great number of officials who are still there. The places of those who have died off and those who have retired have been filled up by these transfers, or the majority of them.

54,594. There are 12 third class clerks in Chancery Chambers?—Yes.

54,595. Can you say how many of those have been transferred from the Registrars' Office?—Four at present in the third class; but some of those transferred some years ago are now second class clerks, and that is one of our grievances.

54,596. Of the present third class clerks in Chancery Chambers four have been transferred from the Chancery Registrars' Office?—That is so.

54,597. Of the second class clerks in Chancery Chambers how many have been transferred from the Registrars' Office?—Three second class clerks.

54,598. How many of the first class?—One.

54,599. Was the one in the first class junior or senior to you?—He was a small boy in knickerbockers when I was appointed.

54,600. He was junior to you?—Very much.

54,601-2. What is your point? Is it your point that you personally have not been selected for transfer, or is it a question of the system?—It is not a personal grievance.

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Mr. THOMAS MILLIKIN.

[Continued.]

54,603. Then what is the point?—My great point is equality of opportunity. I submit we all ought to be entitled to equality of opportunity.

54,604. What do you mean by equality of opportunity?—These young men have had the opportunity to be transferred. I believe in transferring a third class clerk to different departments and letting him gain knowledge by those means.

54,605. But is not that a personal grievance, that you personally have not been transferred?—I humbly submit not. I have three other colleagues in exactly the same position, and I am here to give evidence on behalf of my colleagues and myself—not personally.

54,606. You were eligible for transfer?—I humbly submit so, if I was chosen by Sir Kenneth as a 3rd class clerk in vacation 30 years ago, in 1885, and I was managing clerk in a solicitor's office, as I have the testimonials here to show. I have one from Master Hawkins at the time, in 1885.

54,607. (Mr. Coward.) Who were you with in the City?—I was with taxing master Ryland's firm—Woodcock and Ryland, of Lincoln's Inn Fields—and with Simpson and Palmer, the solicitors to Sir Edward Clarke at his election in 1882. Then I was for three and a half years with John Arthur Parry, in Clement's Inn, where I conducted the whole of the litigation as managing clerk. I was also with Master Ridsdale's father in Gray's Inn Square, when a youth, as assistant Chancery clerk.

54,608. (Chairman.) Is your grievance a question of the system or a personal question?—Emphatically the system.

54,609. What is the system you suggest?—Equality of opportunity.

54,610. All clerks in the third class in the Chancery Registrars' Office are eligible for transfer?—According to my appointment that is my submission. I was appointed as a third class clerk to the Supreme Court.

54,611. But, as a matter of fact, you, and two of your colleagues for whom you speak, have not been selected for transfer?—That is so.

54,612. Is not that a question not of the system but of the particular selections that have been made for the purpose of transfer?—I humbly submit that those selections savour of predilection.

54,613. That is another matter. That is a question of the way in which the selection has been exercised, not of the system, is it not?—Again I say what I ask for is equality of opportunity which exists in Chancery chambers. It does not exist with us because it is a *cul de sac* as regards promotion for a third class clerk if he is unfortunate enough to be in the Registrars' Office. It is a very good preparatory school for promotion for protégés with great patronage, if I may say so.

54,614. You again suggest by your last answer that there is protection and influence in the matter of transfer?—Emphatically.

54,615. But you are not prepared to give facts in support of that allegation?—Except my interviews with Sir Kenneth and the persons who I know have been transferred. I was told that promotion was quite hypothetical.

54,616. You are not prepared to do more than make that general statement. You are not prepared to support it in detail?—I have no documentary evidence, but I submit promotions after even a few years, as they have occurred, are obvious. I can give names.

54,617. Will you tell us now what the nature of your work is?—The *minutiae* are multitudinous, and I do not say that the duties are onerous; but if you will allow me to give you a typical case, may I give my own case as typical, or shall I give that of one of my colleagues? It is quite immaterial.

54,618. I ask you what your own personal work is in the office?—But, to enable me to do that, will you allow me to state a typical case?

54,619. I wish you would answer my question. Describe generally the nature of your own work in the office?—Again I say that the *minutiae* are multitudinous, the duties are not onerous; but if a man is ambitious he makes himself conversant with the whole of the working of the office and the orders, which are very numerous. He must, as of necessity, if he performs his duties properly, know what papers to take in, and the particular orders that are made in court. He must have some legal training to know a motion for a receiver, for instance, and he must know what affidavits are.

54,620. Will you apply yourself to answering my question, and not to describing the qualities of the work. I wish to know what the actual work is which you have to do?—After an order is made by a judge, or by a master in chambers, the papers are brought to us. We ask them the number and the solicitors in the matter, and take a note of that. We have to transcribe the registrar's notes of what took place in court to enable the principal clerk to draft the order. Before that we enter every order in a book, the name and when it was bespoken, the name of the judge and the date of the order; in other words, keep a proper record of the various motions and the orders, or the stage of them. We hand them out to solicitors, and, if I may humbly say so, a great number of the profession who do not practise in the Chancery Division require assistance. We are always having the public before us, and they are grateful for our assistance. They do not know the *modus operandi* sometimes as to the drafts, and we tell them. Then in its last stage we have to see that the proper stamps are on the orders, especially Inland Revenue stamps, such as Foreclosure Orders, although that is conveyance duty. It is our duty to see that it is properly stamped if it is not adjudicated at Somerset House. A man may elect to put his stamp duty on according to the mortgage money, principal interest, and costs, and we have to take it whether or no. It is his risk, but we, in the execution of our duties, should see the amount in the order, and that the stamp is properly put on. Then the percentage is an important matter with regard to the stamps.

54,621. Then your work consists of receiving papers, making the necessary entries with regard to them, and copying certain documents?—No copying.

54,622. I thought you said you copied the registrar's notes?—Yes, we transcribe into a book the registrar's notes for the guidance of the principal clerk in drawing the Court orders.

54,623. What is the difference between transcribing and copying?—I beg your pardon; of course, it is the same thing.

54,624. Then you also have to give out the papers to solicitors, and to see that proper stamps are affixed?—And give them appointments.

54,625. You have nothing to do with the actual drafting of the orders?—Not at all. Sometimes the queries made by the registrars require some difficult answering, and we then assist the solicitors to enable them to answer the queries.

54,626. Do you put forward any claim to promotion in the Registrars' Office itself?—I am so conversant with the statute under which the principal clerks are appointed that, of course, we never aspire to such a position. We were always given to understand that they must be solicitors or barristers.

54,627. Then your point comes to this: that the only opportunity of promotion of the third class clerks in your office is by transfer to the other offices. The third class clerks are eligible for such transfer, but you complain that the system has not been fairly worked. Is that what it comes to?—Exactly. Of course, we have a fewer number of clerks now.

54,628. (Mr. Boutwood.) Have those men who were transferred from the Registrars' Office to other parts of the court any particular qualifications that you and your colleagues do not possess?—I boldly and emphatically say, no. Some of them have never seen the inside of a solicitor's office to my knowledge.

Mr. G. A. HUNT (Third Class Clerk, Bankruptcy Taxing Office), called and examined.

54,629. (*Chairman.*) You are a third class clerk in the Taxing Office of the Bankruptcy Department?—That is so.

54,630. How long have you served in that office?—About eight and a half years—nine years in October.

54,631. What age were you when appointed?—25.

54,632. Had you had any legal experience before that?—I had, but not immediately before. I had three years in a solicitor's office immediately after leaving school.

54,633. What was your occupation immediately before you were appointed?—I was in the Secretaries' office at Somerset House. I had charge of a section of the registry of income tax claims.

54,634. In what class of clerks were you there?—I was assistant clerk.

54,635. You entered the third class in the Supreme Court with the object of improving your position?—That is so; I had in mind the obtaining of a nomination, I may say, all along.

54,636. What is the point you wish to put before the Commission with regard to the Taxing Office of the Bankruptcy Department?—I think the chief point with regard to our office is that the Treasury Classification Order of May 1886, 29 years old, ought to be revised, because it does not provide for a first class clerk for our department, and I think ours is the only one which has not a first class clerk.

54,637. At present the staff is one second class and two third class clerks?—Yes.

54,638. Your suggestion is that there ought to be one first class clerk to assist the taxing master in that department?—Yes, I think there ought to be.

54,639. The reason you give is that it is the only department without a first class clerk?—I think that is so. I am not quite sure—certainly the only taxing department.

54,640. Have you any reasons to give arising out of the nature of the work in favour of a first class clerk being appointed in your department?—Only that it is just the same kind of work as would be done in any other taxing department where they have first class clerks.

54,641. What is the work you personally do in connection with taxing cases?—I take an intermediary position there. We have three clerks. The chief man does most of the vouching work; that is to say, after the master has looked at the bills and settled the principle of them, the chief man goes into details and examines them as to relevancy and also as to quantity. Very often the bills are lengthy and perhaps we might have two or three at the same time, and it is necessary for another man to assist him. I assist him with that work. That is part of my work, but it is not the whole

of it. I also keep the statutory books of record, and assist in answering the correspondence, because that is divided between the two of us. There are numerous inquiries made in the office with regard to different points in Bankruptcy, because in Bankruptcy there is a lot of detail work. I answer many of those inquiries.

54,642. Do you do the casting of the bills?—Not much. The junior man does most of that, but I help him if he has too much.

54,643. Is it the vouching work that you think ought to be assigned to a first class clerk?—Yes, certainly. I think the vouching is appropriate to a first class clerk—not necessarily as regards myself, but I think in the classification of the office.

54,644. Are there any other points you wish to put forward in support of your claim?—No, I do not think there are any particular points. Our point is simply that we seem to be different to any other department in not having a first class clerk, and, of course, there is no opportunity for either of the third class clerks to rise to the second class.

54,645. As regards promotion, are you limited to the Taxing Department, or are you considered as eligible for promotion in the other branches of the Bankruptcy Department?—I believe on paper we are considered eligible, but when application was made it was refused to Mr. Scott before he was made a second class clerk.

54,646. On the ground that his experience in the Taxing Office was not a qualification for the work in the other departments?—I do not think it was that quite. He applied to the senior registrar, Mr. Brougham, when there was a vacancy there at the time Mr. Chandler was promoted, and although he had twice the service that Mr. Chandler had had, Mr. Brougham said to him: "I know Mr. Chandler very well; I know he can do the work, but you have not been in this department; I do not know whether you can do it."

54,647. I see he got his promotion to the second class very soon after that?—Mr. Scott did, yes, but that was on a rather peculiar ground. He was transferred as a third class clerk from the Central Office to the Taxing Office in Bankruptcy, and his junior in the Central Office was promoted to second, over in that office, and I think it was on that ground he was made a second in the Taxing Office.

54,648. Before that had there been no second class clerk in the Taxing Office?—Yes, Mr. Clark was one, but he was about to retire at that time.

54,649. (*Mr. Boutwood.*) Are you eligible to be transferred to any of the other taxing offices?—Yes, I think we are eligible.

54,650. But it has never happened?—I do not know of any case where it has happened.

Mr. J. S. STEWART-WALLACE (First Class Clerk, Land Registry), Mr. E. OWEN BYERS (Third Class Clerk, Land Registry), called and examined.

54,651. (*Chairman.*) (*To Mr. Stewart-Wallace.*) You are a first class clerk in the Land Registry?—Yes.

54,652. How long have you been in the Land Registry?—Since 1900.

54,653. You went there as a second class clerk?—Yes.

54,654. Before that, had you been in the public service?—No.

54,655. When were you called to the Bar?—I was called in 1900.

54,656. So that you went to the office very shortly after your call to the Bar?—Yes.

54,657. Were you a Vinerian scholar at Oxford?—Yes.

54,658. (*To Mr. Byers.*) You are a third class clerk in the same office?—Yes.

54,659. When did you enter the office?—On the 10th March 1902.

54,660. You are not a barrister, I think?—No.

54,661. Had you any legal experience before entering the office?—I was eight years a solicitor's clerk, including two years as assistant managing clerk, with

Messrs. Crowders, Vizard, and Oldham, a well-known firm of Lincoln's Inn Fields.

54,662. (*To Mr. Stewart-Wallace.*) You wish specially to represent the views of the first class clerks in the Land Registry?—Yes.

54,663. Do you also speak for the staff generally?—Yes.

54,664. What are the points you wish to put before the Commission with reference to the position of the staff?—I should like to have an opportunity of explaining to the Commission that in this department there has been a strong feeling of discontent for some years, and of endeavouring to show the grounds on which that discontent is based.

54,665. Will you explain to us the grounds for that discontent?—We appeal for an alteration in the conditions of service in the Land Registry quite apart from the individual merits of the present members. Our case is based on the broadest grounds. We submit that the conditions which have obtained are not such as to encourage and develop a not inconsiderable body of public servants, or to promote that energy, initiative, and zeal

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essential for the best service. For years there has been a strong feeling of discontent and disappointment in the Land Registry. This has not been confined to a few disappointed or discontented individuals. Be the conditions of service what they may, a percentage of these will probably be found. The feeling of discontent is universal. At times it becomes specially acute, and has led to a constant series of protests to the registrar and appeals to higher authority. As the men who are responsible for the daily administration of the department, and dealing with the personnel, we can certainly say that these protests would have been very much more frequent and more acute in expression had we not, out of a feeling of loyalty to our chief and the department, felt it our duty to discourage them.

54,666. I think the most convenient course would be if you would explain in more detail now what the grounds of discontent are?—Yes. I believe the Commission is aware that we are supposed to be a self-supporting office, and in consequence of that there are certain harsh features peculiar to it. That is rather important. I would wish the Commission to bear that in mind.

54,667. When you say that the office is supposed to be self-supporting, that is to say, is it not, that the fees are supposed to be fixed on a scale which will provide for the expenses of the office and for such insurance fund as is considered necessary?—Yes.

54,668. Do you suggest that that has had a direct bearing on the scales of salary or other conditions of service fixed for the staff?—Yes; so far as we can understand it has, directly, in the sense that it has been admitted that the work being performed was of a superior sort and was inadequately paid, but that owing to the fact that there was not a large surplus we could not obtain an increase; it has been very difficult to show it precisely and accurately, because we have nothing in writing on a matter of that sort.

54,669. Has that argument been actually put forward by the Treasury as a ground for refusing claims that would otherwise have been admitted?—For instance, when in a body the then second class clerks were promoted in 1911 to be the present body of first class clerks, to our surprise, when we were promoted to first class clerks, though we had always understood that the first class clerks would begin at 500*l.* and go to 600*l.* a year, we were told that as seven of us (necessary for the work of the office) were promoted, because there were those seven our salary would have to begin at 450*l.* It was reduced, not because our work was inferior to the work of the Law Courts, but because there were seven of us.

54,670. How many were there in the first class before that?—Two.

54,671. At that time the first class was increased from two to nine?—Yes. I am speaking of the Registration of Title under the Land Transfer Acts and not for the Middlesex Registry or the Land Charges Department.

54,672. Was it at that time that those departments were merged with the Land Registry?—No; in the administration of the office the one is quite distinct from the other. We do not interchange.

54,673. But the number of the first class clerks that you mention is nine?—There are seven of us engaged in the administration of the Land Transfer Acts, and it is only for those seven that I have permission to speak.

54,674. The total number of the first class clerks is nine?—It is nine, but that includes one in the Land Charges Department and one in the Middlesex Registry, whom I am not representing.

54,675. At the time when the seven clerks for whom you speak were put into the first class, were those new posts in the first class that were created at that time?—They were not new posts in a sense. There had already been two first class clerks, but it was felt that for years we had been discharging the superior duties, and the time had come when we must receive some recognition.

54,676. But what exactly happened? What became of the two clerks who were previously in the first class?—One of them has been transferred to the Law Courts since, and the other is dead. They were still there at the time.

54,677. Besides those two there were seven additional posts in the first class created?—Yes.

54,678. Then the nine posts which then existed have since been reduced to seven?—Yes. At that time the two first class clerks already in existence were on a scale of 500*l.* to 600*l.* When we were promoted to discharge not only the same duties as those two gentlemen were discharging, but considerably more responsible duties, our remuneration was cut down from 500*l.* to 450*l.*, and, so far as we could ascertain, the reason was that the Treasury felt that there being seven of us it would be too heavy a charge otherwise.

54,679. To have a complete statement of the changes made at that time, was it at that time that two acting assistant registrarships were created?—One acting assistant registrarship.

54,680. And one assistant registrarship?—No, they were already in existence.

54,681. The two assistant registrarships were already in existence?—Yes.

54,682. Then at that time one acting assistant registrarship and seven additional posts in the first class were created?—Yes.

54,683. The acting assistant registrarship still remains, but the nine posts which existed in the first class, after the creation of those seven additional posts, have since been reduced to seven?—That is substantially correct. I spoke of one first class clerk having been transferred to the Law Courts, but he, in fact, had been transferred prior to our promotion, and was already removed from the establishment of the Land Registry.

54,684. So when the seven additional posts were created, that made eight, apart from the first class clerk in the Middlesex Deeds Registry, and the one in the Land Charges Department?—That is so.

54,685. Have you an actual statement from the Treasury that the reason why the minimum of the class was fixed at 450*l.* and not at 500*l.* was because the cost would be too great?—No, we have not that.

54,686. It is an inference which you frame and not a statement by the Treasury itself?—We understood that the registrar was doing his best to obtain what we believed we were justified in having—a higher scale—but was unable to obtain it from the Treasury.

54,687. But the point I want to get at is this: Was the reason given that the revenue arising from the fees paid to the registry was not sufficient to provide for the larger charge?—My colleagues support me in saying that that was certainly what we were given to understand, but there was nothing in writing on such occasions to which we have access.

54,688. There is nothing in writing to support it?—Not to which we have access.

54,689. Will you continue your statement?—Might I say that a second respect in which the Land Registry differs from other departments is that since its inception it has been persistently opposed by a great and powerful profession, and frequently and bitterly attacked. And this not because of the maladministration of the system by the present officials; on the contrary, the fair, reasonable, and even able administration of the department is, I think, commonly recognised. Objection is taken to the system of registration of title under the Land Transfer Acts, and to the State having founded the department at all. This reacts severely on the staff.

54,690. The question which you touch on there is hardly one which directly affects the question of the classification of the staff and the scale of pay?—My point was to bring out that there is a strong feeling of discontent, and we feel that our work from day to day is carried on in a very difficult and uncompromising atmosphere.

54,691. It appears to me that it is hardly within the functions of the Commission to examine the question of how the system of land registration is regarded by the legal profession. That may make some difference, as you describe it, to the atmosphere in which your work is performed, but it is hardly a point to be taken into account in considering the work which you do and the scales of pay or the classification of the staff appropriate for that work?—With

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very great respect, the Lord Chancellor Loreburn apparently had this in his mind when, after the late Royal Commission had reported, he took the opportunity of thanking the staff and saying that their work had been specially difficult and had been carried on under circumstances which required great tact, courtesy, and good temper. I think he did so because it was in his mind that we might reasonably expect some recognition from the State for that. What he meant to convey, I think, was, that a superior class of man was required to conduct this particular work with success. If we were a very narrow-minded or red-tapish body of men we could practically stop the administration of the Acts from day to day, and he said: "Therefore these men are doing a higher class of work" because it requires that particular kind of ability."

54,692. You put that forward as showing that those conditions make your work specially difficult and require special qualities in the staff?—Yes. We feel that the conditions of service do not afford to members of the staff a reasonable prospect of a career commensurate with that offered in other branches of the Civil Service to men holding similar professional qualifications and discharging analogous duties. Barristers of long standing are engaged in discharging the most responsible administrative duties of the department, yet they are graded and paid as though their duties were of a purely clerical and routine character. And this though the registrar himself has for years told us that he has urged a higher scale of pay, and has recently recommended a change in nomenclature from that of first class clerks to that of acting assistant registrars. I may say that the first class clerks in the Registration of Title Department are all Oxford and Cambridge University men and members of the Bar of many years' standing. May I mention what our duties are in support of that?

54,693. You have supplied us with a table* showing the staff of the department?—Yes.

54,694. Did the gentlemen who are at present in the first class enter mainly in the second class or in the third class?—I think every one of them in the second class. There are no men who entered as third class clerks who are in the first class.

54,695. The first class clerks are all barristers?—The first class clerks are all barristers.

54,696. And they entered for the most part in the years between 1899 and 1902?—Yes.

54,697. When was the Land Registry formed?—For the administration of the Land Transfer Acts. The last Act was passed in 1897, and our branch followed on the 1st January 1898. We are administering the Acts of 1875 and 1897. The present Land Registry on the present scale was formed from 1898 onwards, extending gradually.

54,698. Then the numerous appointments which took place in those years from 1899 to 1902 were due to the extension of the work under the Act of 1897?—Yes. We took in London gradually; first a small group of parishes, and then, when we became familiar with the working of the Act in a parish, the area coming under the Act was gradually extended; and as the additional parishes, and finally the City, were taken under the purview of the Act, the staff was, of course, increased accordingly.

54,699. You say that all the gentlemen in the first class are barristers?—Yes.

54,700. Had many of them actually practised at the Bar before they entered the Land Registry?—Yes.

54,701. How many of them?—I think six out of seven.

54,702. Will you tell us the nature of your work?—Our duties consist partly in examining and deciding on the sufficiency of titles, and partly in administering the system of registration of title throughout the county of London and, so far as it is in operation, in the provinces. We have complete discretion to grant or refuse absolute titles in accordance with the opinion we have formed, subject, of course, to the over-riding power of the registrar, and he has, in effect, drawn up certain general rules to guide us based on an experience

of some years; but he will not absolve us from personal responsibility by quoting to him his own rule. He insists on our being responsible although he has made certain rules to guide us, so that we each have to form our opinion on a title.

54,703. Does it depend on you whether you give a decision on a title or whether you refer it to the registrar or assistant registrar?—We should refer it to the registrar direct in cases of doubt.

54,704. You do not refer to the assistant registrar?—Always to the registrar.

54,705. If you consider that a title is clear you decide on it and pass it, and that does not go to the registrar at all?—No.

54,706. Nor to the assistant registrar?—No. There is one over-riding consideration, and that is, that in dealing with land of really high value—over 10,000*l.*, I think it is—all such cases are referred to the registrar personally. I should go into his room and say, "I have a title to land here of over 10,000*l.*," and he would say to me, "Have you any points arising on it? Is it absolutely clear?" I should give him a very brief statement of the facts, and he would say, "That is all right," or if any point did arise he would go into it further. But that is done also by the assistant registrars.

54,707. What class of case goes to the assistant registrars?—The same in the general course as goes to the first class clerks. I think the registrar explained that the assistant registrars are wholly engaged upon the absolute titles, together with two or three first class clerks, who take turns, generally doing a period of a year, and then we go back to the possessory titles under the compulsory clauses.

54,708. When you are dealing with an absolute title are you doing exactly the same work as is done by the assistant registrars?—Exactly.

54,709. For the purpose of deciding on titles you have to have a wide knowledge of conveyancing law and land tenure?—Yes. I would venture to remind the Commission that if we did make a mistake the consequence would be that the Insurance Fund would have to pay. We have been doing it for many years now, and we submit that the immunity of the Insurance Fund from any claim for indemnity shows that none of us have made a mistake, and proves our competence to discharge the very responsible duties entrusted to us.

54,710. Have there been any claims on the Insurance Fund?—One, on a very technical point regarding a charge, not on an absolute title. No absolute title granted by the Land Registry has yet been challenged.

54,711. (*Mr. Coward.*) Probably it would not have arisen yet?—Possibly not; but I would venture to say it probably would, because we are very carefully looked after by the solicitors, and if we had passed one wrongly I think we should have heard of it some time ago.

54,712. If you had passed one that the solicitors had thought you were erroneous about, then you would have had the fat in the fire?—Yes.

54,713. (*Chairman.*) Do you claim that that work entitles you to be regarded as on the same footing as the assistant registrars?—Yes. I should also say that when the present Lord Chancellor became Lord Chancellor and visited the Land Registry, my colleagues and I were introduced by the registrar to him as the responsible heads of the department and as the men who, in the event of the Land Transfer Acts being extended throughout the country, would be called on to administer the Land Transfer Acts in any part of the provinces, and who would be able to do it without even the assistance of the registrar in person. All of us were so introduced; and the Lord Chancellor spoke to us on the understanding that we were the men so qualified if he saw his way to extend the Act, and of whom he would be able to say, "Here are half a dozen men ready at once to go and administer the Act in such and such a county."

54,714. You ask that the title of your post should be changed to "acting assistant registrar"?—Yes, that has been approved by the registrar and by the Lord Chancellor; but before doing it the Treasury suggested that as the question of nomenclature would come before this Commission they thought it advisable to wait and

* *Vide* Appendix CII.

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not make any change until the report of the Commission had been published.

54,715. Do you attach importance to the question of the nomenclature?—Yes.

54,716. Or is it the substantive position to which you attach importance?—This question arose just at the outbreak of the war. We did not wish to appeal for any rise of salary during the war, but we did ask that we should get the title given to us because we found that in dealing with solicitors—we having to deal with them absolutely directly, and see sometimes the very leading men of the profession—it is advisable that we should have the substantive name as well as the actual work to do. We feel it is rather important, and I think the registrar shares that view.

54,717. The term “acting assistant registrar” does not seem very appropriate for a permanent class?—Of course any other title that would suggest our real status we should welcome; but we feel that it is certainly not conveyed at all to a stranger coming into the Land Registry by the term “first class clerk,” as we have to take the responsibility of advising a solicitor many times on delicate matters regarding the Land Transfer Acts, and our decision is binding on him, save in so far as he formally appeals to the registrar. I think the registrar indubitably agrees to that and has recommended to the Lord Chancellor that we should be known as “acting assistant registrars” for that reason, but he does not attach over-importance to the actual title provided it conveys our real position. We agree that the word “acting” may sound temporary, but we thought it still worse to say “deputy assistant registrar,” and they could not make us assistant registrars without giving us the pay, and during the war we did not wish to take up any position in which it seemed that we were pressing for an increase of salary. What we were really getting at was that we felt that we should be personally protected if called “acting assistant registrars,” and that when the positions of the assistant registrars become vacant in time, if we were acting assistant registrars it would be regarded that we were competent to fill the posts and prevent what, to my mind, was a very serious danger of outside appointments being made after we have borne the burden and heat of the day for some fifteen or twenty years. We are very nervous about that. We have no guarantee that it will not be done, and it has caused very acute apprehension that it might be done. The registrar agrees with us that it would protect us if we had a superior title conveying our real status and work.

54,718. Apart from the question of title, what is your suggestion as regards the position and remuneration of the first class clerks?—One of my colleagues reminds me that the term “Acting Assistant Commissioner,” according to “Whitaker,” is used in some other department for permanent officials.

54,719. In what department?—The Charity Commission.

54,719A. (Mr. Boutwood.) It may be in “Whitaker,” but it is not so in the office?—We have already one official in the Land Registry known as an “Acting Assistant Registrar,” and he is permanent. Provided any name is given which conveys the status it is not the word we stick to, but the title describing our functions.

54,720. (Chairman.) Will you deal with the suggestion you wish to put forward concerning salary?—The scale of pay of the first class clerks is 450*l.*, rising by annual increments of 20*l.* to 600*l.* per annum. We understand that the various grades of clerkships were created by way of analogy to those existing at the Royal Courts of Justice, but the responsibilities of the first class clerks in the Land Registry have been very substantially increased since the grade was created, and I submit that our qualifications, and the administrative and quasi-judicial character of our duties, place us in an entirely different category from the first class clerks at the Royal Courts of Justice. If I might be permitted, in support of that, I should like to refer to the evidence of Master Romer, which I had the opportunity of reading this morning, describing the first class clerks in the Royal Courts of Justice, to whom we are supposed to be analogous. I was very much impressed by this phrase: “At present the registrars are independent

“ officers. They are under the judge, and they are not “ in any sense under us. They are men of the same “ social position as we are, and, as I need not explain, “ the consequence is that the relations between the “ masters and the registrars are quite different from “ the relations between us and our clerks.” That is a phrase which would never be used by Sir Charles Brickdale regarding us. We are invariably introduced by Sir Charles Brickdale to any solicitors or counsel who may be appearing in his department as his colleagues. We, of course, belong to the same schools, the same universities, and the same clubs in town. I actually read this passage to Sir Charles Brickdale to-day, and I said: “I hope I have your authority for saying “ that you are good enough to regard us as friends and “ colleagues,” and he said, “ Most distinctly; ” and he added: “ The safest way is, if I invite you to dinner to-night.”

54,721. Are you acquainted with the work of the first class clerks in Chancery Chambers?—I cannot say that I am acquainted with it, but I have read the evidence of Master Romer, and it is quite clear from that evidence, I submit, that the men there are always acting under the direct personal supervision of the master; that they decide nothing on their own, but the responsibility is invariably taken by the master. They prepare the groundwork of the cases, and then it is submitted to the master for final decision. The position occupied by the masters in that regard, or by the registrars in the courts, is exactly the position occupied by the first class clerks in the Land Registry; it is prepared by the third and second class clerks and goes to the first class clerks, and is finally decided by us. Our initials are the initials on which the register is typed, and the insurance fund made responsible for the correctness of the entries. There is no reference to the assistant registrars. I do not think the registrar would ever talk about “our clerks.” In the Law Courts, I understand, the clerks are attached definitely to assist one particular master, and he would give them definite orders. With us there is no such thing as that. The whole administration now of the Land Transfer Acts in London is handed over to us. We deal with the staff personally; we arrange times, we initial leave, and do the other administrative duties that arise, and we would be consulted by the registrar in the event of men junior to us being promoted. He does not know the men as we do, nor see their work; he would ask us about them, and we should endeavour to assist him.

54,722. In the organisation of the office are particular clerks in the lower classes attached to each first class clerk?—No.

54,723. The work is not specialised in that way?—No.

54,724. How is the work distributed between the first class clerks?—We take the cases more or less as they come. One absolute title may come along and take a great number of hours—possibly in a very big matter a few days—and another case may be very simple and it can be passed in an hour.

54,725. The papers come in and the case has been prepared up to a certain point by the clerks of the lower class?—Yes.

54,726. How does the clerk who has prepared that case know to which first class clerk to bring it?—That will go to the Central Office, and the Central Office will distribute the work, and it is our duty, knowing that the work must be done—and we are always in touch with the state that the work is in and what cases are undone—to stay till it is done, and it is sent to whatever man may be free.

54,727. Then the distribution is merely according to the position of each first class clerk as regards his current work. If he is coming to an end of what he has he is given some more?—Yes, and it is his duty and business—and he is responsible to the registrar for the statistics showing that the work has been done reasonably fast.

54,728. Have you any definite suggestion or claim to put forward as regards the salary of your class?—May I read a rather striking statement as to the first class clerks of the Land Registry? Our average age is 46 years; our average professional standing 21 years;

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our average public service is 14 years ; our average service before promotion to our present rank was 10 years, and our average present salary is 540*l*. The opportunities of promotion, should present conditions remain unaltered, are for many of us practically absent, and for all of us quite indefinitely postponed. We do feel that those are conditions under which it is very hard indeed to maintain a constant keenness for a department of the public service.

54,729. Do you merely put forward a general case for improvement of your position, or do you wish to put forward any particular claims?—The point I should like to bring out is that we are not here as a body of men saying we are extraordinarily able persons and require promotion. We are endeavouring to show that we are asking for the work that we have done for years to be recognised, and that we should be paid and get the name and status according to the work that is done.

54,730. You have mentioned that you wish for a change of designation, and that you thought there was no ground for the reduction in the minimum salary of the class which was made at the time when the numbers in the class were largely increased. Is there any other definite point you wish to bring forward as regards the present scale of pay?—We should like to say that we are doing the work of assistant registrars, and that the work of doing the absolute titles and administering the Land Transfer Acts in London could not be conducted by the registrar and the two assistant registrars ; the volume of it is very great as you can imagine, dealing as it does with a population of four millions. We have to assist as assistant registrars, and of course our claim would be that we should really be made and paid as assistant registrars ; but during the war we feel that that is an impossible and impracticable position, and we do not wish to press that point.

54,731. Do you wish to put forward any consideration on behalf of the lower class of clerks also?—Yes, I want to say that we submit that while these conditions are very hard on the first class clerks they are equally hard on our juniors. If the qualifications for first class clerks which are insisted upon to-day, and which are necessary while we do our present work, continue to be insisted upon in the future, none of the third class clerks and very few of the second class clerks can hope to be promoted to that grade at all.

54,732. What are those qualifications?—If you are going to be trusted to examine a title and decide on its sufficiency, you must have had professional training, and we do not think that that work could be trusted safely to men without a certain education which may not be possessed by all the present body of third class clerks.

54,733. You are not speaking of actual professional qualifications such as being called to the Bar?—Yes, I am.

54,734. Is it at present made an indispensable qualification for promotion to the first class that the men should have been called to the Bar?—I could not answer the question in that form, but in actual fact no one not possessing those qualifications is a first class clerk.

54,735. In the case of the clerks of the lower class, how many are qualified as solicitors or barristers?—None of the third class clerks. I am told that there are five barristers and two solicitors in the second class. There are three second class clerks who are neither barristers nor solicitors.

54,736. Do those who are barristers or solicitors possess the necessary qualifications for promotion to the first class?—They would on the present conditions, I think, provided the registrar considered that the individual was efficient.

54,737. Would the work done by the second and third class be a suitable preparation and training for the work of the first class? Have they to deal with the points which arise when you scrutinise a title?—I should think, provided you started with a man possessing a liberal education, he could certainly hope to do it, but I think he certainly must have a professional qualification and be a lawyer. I do not see how the legal work could ever be done by a man who had not some legal knowledge. But the Land Registry itself, I should have thought, was one of the finest schools

of conveyancing in the kingdom, because we see an immense number of titles and read them—I suppose more titles are read by us than by any other body of men in England ; it must be so.

54,738. Would that apply to the second and third as well as the first class?—A certain number of the second class at the present time have opportunities, but I do not know that any of the third class have. Mr. Byers will later on be able to tell you.

54,739. How many of the second class are men of university standing?—Three of the second class clerks.

54,740. And of the third class?—One. The point I wish to bring out is, that the effect of the present first class clerks possessing their present qualifications, and being classed and paid on their present basis, is a hardship, not only to them, but to the others, because this very substantially penalises a man entering the Land Registry as a third class clerk compared, for instance, with the Law Courts, to which we are supposed to be analogous. There, I think, it appeared from the evidence of Sir Kenneth Muir Mackenzie, that the clerk entering the third class can hope, by diligence and efficiency, to reach the first class ; but in the Land Registry, there being a professional qualification, it would form a bar which he would not have an opportunity of surmounting, and we feel that is very hard on the present staff of third class clerks in the Land Registry. I suppose a brother might go into the Law Courts, and if he discharged his duties efficiently there, he could hope certainly to say : “ Before I retire I may “ hope to have 600*l*. a year.” In the Land Registry to-day I think he could not say that.

54,741. What do you consider the proper way of filling the higher posts in the Land Registry?—I should say there must be a professional bar, but we submit that that should be placed at the grade of assistant registrar and acting assistant registrar, and they may be regarded, say, as all the men in the first class now. One of the assistant registrars and the acting assistant registrar came in as second class clerks, not as third class clerks. A man possessing a liberal education who comes in as a second class clerk might reasonably hope to become an assistant registrar. But, I think, in the case of a man entering the service of the Land Registry as a third class clerk, all he could reasonably hope for in the absence of very special and exceptional talent would be to become a first class clerk. At least, if that were so, he would have no grievance as opposed to men entering the Law Courts.

54,742. (*Mr. Boutwood.*) That is the point. If the first class clerks were made acting assistant registrars or something of that sort, do you suggest that there should be a new grade of non-professional first class clerks created at the head of the clerical staff?—Yes, we should suggest then that it should re-act throughout the office.

54,743. (*Chairman.*) Your suggestion would amount to this, that there should be two lines of promotion, one for professional men entering at the second class and promoted to first class and to assistant registrarships, and another line of promotion for non-professional men entering at the third class and eligible for promotion to the second and first class?—I think I represent the entire department in saying that there is a strong feeling in the department that that would be a reasonable career for men coming in.

54,744. Then what would be the work of the first class under the system you suggest?—The work discharged by the second class clerks at present.

54,745. In fact, everybody would be moved up a class?—Yes, because they are actually doing the work now.

54,746. What would be the work of the future second class?—They would do the work they are doing now.

54,747. But you say the future first class is to do the work at present done by the second class?—We are not claiming promotion. We are submitting that on the work actually done to-day the first class clerks are called upon to be men of education and to discharge the functions of an assistant registrar, and that that should be recognised.

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54,748. Then the present first class clerks on your suggestion would become assistant registrars, and the present second class clerks would become first class clerks, but continue to do the work they are doing now?—On the same ground, that they are doing senior work.

54,749. What would be the work of the future second class, the work of the present second class being done by the future first class?—This re-acts throughout the whole office in the sense that our third class clerks are frequently called upon to do work of quite a responsible nature which we think it quite reasonable should qualify them to be second class clerks.

54,750. Then the future second class would do the work now done by the third class?—Substantially.

54,751. What would the future third class do?—That is rather going into the organisation of the whole department. I think it has been found that the present extreme division of class is not quite the happiest arrangement. Having admitted a professional bar or qualification for what may be called the superior class in the Land Registry, we go so far as to suggest what is called in the other offices the second division for the purely routine and mechanical work of the Land Registry.

54,752. You have already some assistant clerks for routine work?—Yes.

54,753. At present you have three classes doing certain work, and according to the organisation you suggest you would have four classes?—We should in actual substance abolish the third class clerks, because I think the registrar agrees that the present nomenclature is not a very happy one. We cannot really make all the duties of the office fit neatly into these sections or classes, and it ought to be a little more elastic than it is.

54,754. What exact organisation do you suggest?—We suggest, to accept your emendation, that every man of the professional class might come in as second class clerk and be promoted right through to assistant registrar, and higher in the case of a very exceptional man. Regarding the purely routine clerical work, we should like to bring out that there is a great hardship on the present third class clerks who came in imagining that they would go straight through to first class clerks. If promotion was open to these men we should appoint no more third class clerks expecting to go up to the first class, but we should have the professional class and the routine class.

54,755. In fact, leaving aside the case of the present men appointed with prospects of promotion, you would in future have a class for the routine work without prospects of promotion except in very exceptional circumstances, and a higher class recruited direct from professional men entering through the second class. Is that it?—Yes.

54,756. It is an organisation corresponding to that of the Chancery Registrars' Office. Are you familiar with that office?—I am not sufficiently familiar with it to commit myself. I am told that I did not sufficiently bring out the point that for the clerical and routine work in the Land Registry our suggestion would be that it should be done by what are called second division clerks in the other branches of the public service.

54,757. You would abolish the third class altogether and substitute second division clerks for it?—That is our suggestion.

54,758. You think that second division clerks would be fully capable of doing the work of the third class under those conditions?—Yes, and I am supported by my colleagues on that point.

54,759. Do you wish to speak also on the question of transfer to other departments?—Yes, I think one of the causes of discontent is the fact that the only real avenue to promotion appears to lie in transfer from the Land Registry to some other branches of the Civil Service. In spite of this it is not the most competent members of the staff who have had the opportunities of such transfer. I think it will be generally conceded—and the registrar would probably agree—that the most efficient members have remained in the Land Registry. In fact, it has never been suggested that those transferred persons were selected by reasons of any special qualifications or superior capacity, but it

does remain a fact that those transferred to other departments have received substantial promotion whilst their colleagues (in many cases their senior colleagues) have remained in the Land Registry with much smaller, if any, advance in position and salary. For instance, in the course of the last 16 years several junior members of the staff have been transferred to other departments, principally to positions in the Royal Courts of Justice. There was a very striking case in 1901 when a junior third class clerk having, so far as is known, no special qualifications was transferred from the Land Registry to the department of the registrars of the Chancery Division and has advanced from that date, it is believed automatically, until he is now a registrar receiving a salary of 1,250*l.* rising to 1,500*l.* per annum. In 1901 another third class clerk in the Land Registry was transferred to the same department and has similarly advanced until he is now a principal clerk receiving 800*l.* a year. There have been several other cases of such transfers.

54,760. Those are typical cases?—Those are typical cases.

54,761. You suggest that men without special qualifications who have been transferred to other departments have advanced much more rapidly than they would have done if they had remained in the department?—I think I may say without doubt that if these men had remained in the department they would have had no opportunity of being promoted, certainly not sooner than the present men, and several of them might not have received promotion at all. So far as we who are responsible for the administration of the Land Registry would have to recommend them, we should say that probably they would not have been promoted at all with us.

54,762. You mentioned that you had a feeling of insecurity as regards future promotions from outside. Will you explain that a little more fully?—There is a feeling of insecurity in the department due to the apprehension that such posts as may become available for promotion may be conferred on persons from outside the department. This feeling was accentuated last autumn by the temporary employment of a gentleman from outside the department to perform some of our duties, and he was appointed at a higher rate of pay.

54,763. What was he called?—He had no official name accorded to him. He was brought in for a short time to assist in the absolute title work, but the registrar told us that he regarded him as junior to every single one of the present first class clerks. We made some appeal to the registrar about it, and pointed out to him how exceedingly serious it was to us, if a man might come in in that way at a higher rate of pay, and it was extremely discouraging, and we asked him to communicate our feelings to the Lord Chancellor, which he did, and the registrar assured us that in that particular case our apprehensions were absolutely without foundation, and that so far as his recommendation would have weight with the Lord Chancellor he would certainly recommend every one of the present first class clerks as suitable men for holding the higher posts.

54,764. (*Mr. Coward.*) What became of that gentleman?—His appointment was for a period of three months, I think, and at the termination of the three months it was an end of his engagement at the Land Registry, but it caused a very acute feeling in the Land Registry, and we took the point with the registrar, that if that sort of thing was to happen it would be probably done in that way—that a gentleman would be put in temporarily to learn the work and later on employed again, and when an assistant registrarship fell vacant they would say, "This gentleman has learnt the work of the department," and he might be slipped in over our heads. We asked that some official statement might be given to us, that so long as we were efficient and performed our duties well, and in the opinion of the registrar for the time being were capable, the Lord Chancellor would rather consider our cases after 20 years of work, as many of us have had, in preference to a gentleman from outside. We submit that the gentleman who came in is of the same standing as we are.

54,765. (*Chairman.*) Was he a barrister?—Yes, he was a barrister. We do not ask that the fact of being

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a member of the staff should give a vested right to promotion, of course, but we respectfully submit that the claims of the staff in the department should be considered first, otherwise our career is very seriously endangered.

54,766. Do you wish to add anything further as regards promotion?—So strong has the feeling of discontent been, that in past years several members of the staff have resigned and sacrificed their pension owing to their disgust at the absence of any encouragement.

54,767. (*Mr. Coward.*) What has become of them? What have they done?—They have done very well. When the Insurance Act began one or two of our old members got positions under that, and have all advanced very substantially compared to what would have been the case in the Land Registry. The result is, that we feel that it is a department not to be in, but to get out of, which I submit is not a healthy feeling to have in the department.

54,768. (*Chairman.*) Do you consider that the prospects and position you have at present are worse than what you had reason to expect when you entered the department?—Yes, but on this point I should like to say that the case I am endeavouring to make is not that we have anything in the nature of a grievance because the Land Transfer Acts have not extended; that could not be a legitimate grievance to us. We took the risks and we hoped that if it had extended we should have had positions in the country. But the case I am endeavouring to make is, that our work of the administration of the Land Transfer Acts in London, in the most important area of the country, in itself entitles us to a better position than we have, and we have been disappointed that we have not received more for the work that we have actually done.

54,769. Was the work which is now being done by first class clerks done by first class clerks at the time when you entered the department?—No, it was done only by assistant registrars. When I came into the department I thought if I made myself qualified to do the exact work that I am doing to-day I should be in receipt of 850*l.* to 1,000*l.* a year.

54,770. At that time did the first class clerks not decide questions of title at all?—No, nor the assistant registrars.

54,771. Were they decided by the registrar only?—At the beginning of the Land Transfer Acts we dealt only with the possessory work; the absolute work was practically dead—there was very little. With the enlarged knowledge of possessory work and the enlarged experience in London of the classes of title that we met with, we became exceedingly cognisant with the London titles and acquired a vast amount of information regarding titles, and the registrar from time to time felt it possible to advance a little further in granting absolute titles, and as the absolute title work increased, so, first of all, the assistant registrars were drafted off to do the absolute title work and then the first class clerks. That is an increasing branch of our work, but when we started there was practically no absolute title work.

54,772. That is a kind of work which has grown up since you entered the department?—Yes, that branch of the work has very substantially increased, and is increasing rapidly.

54,773. You represent that the work now done in that branch by first class clerks is as important and responsible as the work that was done by assistant registrars at the time you entered the office?—Undoubtedly. It is exactly the same. The administration of the possessory parts of the Land Transfer Acts in London is given entirely to the first class clerks. They administer those Acts and arrange the office subject to the criticism and over-riding direction of the registrar. He deposes that power to the present first class clerks.

54,774. Was it the practice in the early days of the Land Registry to consult outside counsel on questions of title?—To some extent it is the practice to-day, because under the Land Transfer Acts if any extremely complicated point of law arises which the registrar personally feels a doubt about, he has the right to refer it to counsel for consideration.

54,775. Is that often done?—I could not say often, but the power is always there.

54,776. Was it not more frequently done in the earlier days?—I have no precise statistics. Our impression is that it was.

54,777. You could not say whether it is the case that the staff inside the office now deal with questions which in the earlier days would have been referred to outside counsel?—Yes, undoubtedly.

54,778. That is the case?—We can certainly say that. We are all so much more experienced. The registrar himself feels able to do things that he would not have ventured to do 15 years ago, owing to the experience which we have gradually accumulated in London.

54,779. Going back to the prospects at the time you entered the office, the higher staff of the office has been increased since that date?—Not the assistant registrars. We have had one acting assistant registrar appointed.

54,780. And the number of first class clerks has been increased?—In 1900, when I came in, there were a registrar, two assistant registrars, and two first class clerks. Now there are the registrar, two assistant registrars, one acting assistant registrar, and for this branch of the work, seven first class clerks. At one time there were three full assistant registrarships. That is another thing which has contributed to our mental perturbation. Everything has been cut down; there has been no special progress anywhere. When we were promoted in a body our salary was cut down.

54,781. (*Mr. Coward.*) Not cut down?—I accept the correction. It started at 450*l.*, but for several years it means that it is substantially cut down.

54,782. (*Chairman.*) The minimum of the scale was reduced?—The result is that we are personally receiving less to-day than if we had been appointed at 500*l.* a year.

54,783. (*Mr. Coward.*) Yes, but you are getting more than you would if you had stopped as second class clerks?—Admittedly, but we feel that it is hard that we were cut down. When the acting assistant registrar was appointed, the registrar in the fullest way stated his position as being absolutely the same as the other assistant registrars, but he was cut down to 700*l.* a year, and then the statement was made that if he were removed elsewhere, the question whether another acting assistant registrar would be appointed would be considered. It seriously affects us that nothing is held out in this department to encourage men at all.

54,784. (*Chairman.*) Do you wish to say anything on the subject of temporary clerkships?—The only point there is that several of my colleagues have been temporary members of the staff for some years, and it is felt that a grave injustice would be done to them if, when the moment comes to decide upon their pensions, the years that they spent in the department as temporary assistants should not count towards the years on which their pensions should be based. That is the case where they have subsequently been made permanent.

54,785. Does what you have said represent the whole of your case which you wish to put forward on behalf of the first class clerks?—There is one point which we view with some apprehension. We saw it suggested that possibly the rule in the Civil Service did not apply to the Land Registry regarding retirement, and that possibly the registrar and assistant registrars might stay on, I gather, rather indefinitely. We feel that that would be very, very seriously penalising us, because the present assistant registrars came in when they were younger men than we are, and received 850*l.* to 1,000*l.*, and several of my colleagues are as old as those assistant registrars, and they would never get a chance.

54,786. You represent that the ordinary Civil Service rules as regards retirement ought to apply in the Land Registry?—With much respect we would like a ruling from the Commission that that would be advisable.

54,787. (*Sir John Kempe.*) In your letter of February you quote the Land Transfer Act, 1897, and say that Section 22 of that Act requires that the fee orders relating to registration of title should be arranged so as to produce an annual amount sufficient to discharge the

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salaries and other expenses. Has the Treasury ever raised the fees as the department has grown, or has the work of the department grown sufficiently to meet the expenses of the staff?—We have altered the fees. It is difficult to give a very definite answer to you, because the graduated scale has been altered, and we have rather reduced the fees regarding the smaller values, and increased them regarding the higher values. The object was to obtain rather more money for the department than had been available.

54,788. It was done specifically in order to meet the growing expenses of the department?—I think so.

54,789. Yet, in spite of that, you say you are told that the Treasury consider that they cannot raise the salaries until the fees reach the right amount?—I do not want to say that we have been told that, because nothing in writing came from the Treasury about it, to which we have had access, but that was the impression—that if the institution had been a flourishing one in the sense of paying, we indubitably would have had larger salaries.

54,790. How much of the land of the country has been brought in now?—The administrative County of London is in the compulsory area. The whole of England and Wales is voluntary.

54,791. Yes, we have been told that, but the system is a long way from full development yet?—Admittedly.

54,792. And more fees and much larger revenue will be produced by and by?—That would be so from all over the country; but in regard to London the extension of the system would not bring in more money, because we have already brought in the administrative County of London, and I take it that the expense of administering another area of the country would eat up the fees coming from that area.

54,793. I suppose the fees come according to the area?—Not under the present scale. It is a universal fee for the whole of England and Wales.

54,794. Would a large estate pay more than a small estate?—Yes, it is graduated and based on the graduated principle.

54,795. Are the fees higher in London?—No, the same.

54,796. The fact that London is brought in would not increase the revenue very largely. The larger revenue would be derived from the larger area of the rest of the country when it comes in?—In London it is compulsory, and must come in; in the rest of the country it is voluntary, and we regret to say that the landowners do not avail themselves of the opportunity so much as we would like.

54,797. But that is the area which, if ever developed, will bring in the most money. London does not bring in the most money?—I have seen no statistics to prove it. I should have thought the value was the other way, London values being much higher.

54,798. It is the value of the land on which it is based?—Yes, it is an *ad valorem* fee.

54,799. You say you are dealing with transactions, many of which involve large sums of money. Does that mean that a large sum of money depends upon your registration of the value?—If, in dealing with a very valuable piece of land, we made a mistake, and an applicant subsequently turned up, a claim would be made against the insurance fund.

54,800. If a mistake is made the insurance fund will have to pay?—Yes.

54,801. It does not affect the value of the property whatever you do. A mistake can always be put right. You would not depreciate the value of property by anything you do?—No; on the contrary, we submit it increases the value of property, because by adding security of tenure the property becomes more valuable. I am told that in Australia the value of the land has increased something like 10 per cent. since the system of registration was adopted, owing to the smaller legal fees and the feeling of greater security.

54,802. (Mr. Coward.) Is that so, really?—That came out before the Commission in Scotland from a witness, a Mr. Hogg, a barrister of large experience in the colony, and I mentioned it in an article I contributed to the *Contemporary Review* last May, and it was unchallenged, I think.

54,803. (Sir John Kempe.) I see in the Estimates of the present year the Land Registry fee stamps are 38,000*l.*, and last year 61,000*l.* 61,000*l.*, I suppose, is not the permanent amount?—I am afraid I have not come prepared to answer questions on finance of that sort.

54,804. You do not know why the fees received last year were so much greater than those estimated in the present year?—My colleague tells me it was because of the different method on which the accounts had been based. In previous years distinction was made between the Land Transfer Acts and the Middlesex Act, and the 38,000*l.* represented the expenses and income of the Land Transfer Acts, and the balance represented the Middlesex Act. Last year, I understand, they were amalgamated, and one sum was returned for both; but I speak subject to correction.

54,805. You are speaking of all receipts and not of fees alone?—Yes, receipts.

54,806. Then the amount is not reduced because of the war but because of a change of accounting?—Yes.

54,807. (Mr. Coward.) You speak about being apprehensive of people being imported into the office over your heads, as it were. You have been there for 15 years?—Yes.

54,808. Doing this work for 15 years?—Yes.

54,809. Assuming that it is well done, you will have had far more opportunity for doing that work than any person who could be imported into it?—We submit that that is unquestionably so.

54,810. Then is there any real cause for your apprehension? If you are able to do this work thoroughly well, I cannot conceive why you should be apprehensive of having somebody put over your heads?—Last year one gentleman did so come in. The registrar gave us to understand in that particular instance that our apprehensions were, in fact, without foundation. He recognised the fact that the first class clerks are fully competent to act, and have, in fact, for some years been acting as assistant registrars, by his recommendation to the Lord Chancellor, which I spoke about; but in spite of this, while emphasising the fact that the appointment did not rest with him, he expressed the opinion that it would be impossible to obtain any assurance whatever from the authorities that should any appointment be made to an assistant registrarship the claims of the present staff would be considered before those persons from outside the department.

54,811. They always might go outside if they were going to get a man who was, in their opinion, more competent?—We agree to that.

54,812. I should have thought, myself, that there was no possible risk, provided the two men were equally competent; but the question is whether they are. When you went into the office, your experience was not very great?—In one sense it had been because I had been for some years engaged as a coach at Oxford in connection with fellowships and had much larger experience than is possessed normally.

54,813. Not practical experience?—No.

54,814. You would not have the same experience as is possessed by a conveyancer at the Bar nor a solicitor in practice, of the practical working of titles?—Except in the subsequent 15 years.

54,815. Of course you will be familiar with Burton's Compendium and things of that kind, which probably the ordinary man in the street would not know much about?—Yes; but we have had such elaborate experience since in examining titles.

54,816. That is exactly what I said, so I should have thought you would have been quite free from fear?—But it does exist.

54,817. Do not you think it may be misplaced?—We hope so.

54,818. Perhaps you do not know what sort of work is done by the managing conveyancing clerks of solicitors?—Yes, I have some acquaintance with it.

54,819. Is not that much the same kind of work as you do?—I think it is rather difficult to speak of the whole class of managing clerks; they vary very greatly in my experience. Some of them are men of liberal university education and possessing the qualifications which the Commission, I think, recognise as necessary

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for administrative posts. Some of them, my experience shows, have not that liberal education.

54,820. I agree; but I am speaking of the conveying clerks in solicitors' firms who do a large business?—Who have a liberal education?

54,821. Yes?—Then they are men of the same class, but without the special experience of the Land Transfer Acts which we have acquired. Our knowledge of London titles I do not think any body of men could possess, because we index a great deal of the knowledge and have acquired it through a course of years. Our position is not the position of a man outside, who can leave one firm and go to another and get another position. If a man is appointed over his head there are other firms he can go to. But there is no second Land Registry. We have spent the whole of our lives practically in the Land Registry and cannot retire and go to a rival Land Registry and ask them to take us on because of our experience.

54,822. Supposing the whole of you seven first class clerks retired to-day, do you think your places could be readily supplied?—It is difficult to suggest that we are the only competent men in London. I should be the last to do that.

54,823. Would there be really any difficulty in getting a great many applicants for the posts?—If I might put it in another way, 15 years ago, before I entered the Land Registry, I was in receipt of a larger income by the exercise of professional skill than I am to-day after 15 years in the public service. If I had known that would be so I am not quite certain that I should have entered the public service; but I cannot now resign.

54,824. Then "Fain would I climb but that I fear to fall"?—There are private reasons, as a rule, for movements of that sort. I would venture to leave myself out altogether, and say that I think you would have very great difficulty in getting a body of men such as my colleagues are for their present salaries to discharge the duties they do. I do not think it could readily be done.

54,825. There is no question, I should think myself, that the first class clerks in your office are quite a different class to the first class clerks in the other legal offices?—We venture to think that an inquiry into our records and standing would show—and the statements made by Master Romer and the other witnesses from the Law Courts, I think, substantiate the view—that the men discharging the duties of the first class clerks in the Land Registry to-day are quite a different class—I do not use the word in any invidious sense—from those who are called first class clerks in the Law Courts, from the point of view of social standing, professional training, and otherwise.

54,826. (*Mr. Boutwood.*) To go back to your apprehension, I suppose, as a matter of fact, what you have in your mind is, that some day there might be a wicked appointing authority who might not give exclusive attention to the qualifications of the men before him?—I accept every phrase of that.

54,827. The suggestion has been made to this Commission that in all these cases, where patronage is exercised by one man, he should be assisted by some sort of a committee on which, for instance, the Treasury, the Civil Service Commission, and the office concerned would be represented, and that virtually he should act on the recommendation of such a committee. Would that be an additional safeguard?—I think it would.

54,828. Who appoints the assistant registrars?—The same appointing authority as appoints the first class clerks—the Lord Chancellor.

54,829. Are there any qualifications prescribed for them?—Under the Act five years as barristers or five years as solicitors.

54,830. Do they do anything that you do not do?—No. There is only one point about it, and that is one reason why we are asking for the title of assistant registrars. In the absence of the registrar to-day, because of our title, he could not make us acting registrars, whereas he tells us that he would have absolute confidence in us individually, but there is a bar to his doing that owing to the fact that we have not the title. If we had

the title he has told us that he would trust us as he would his assistant registrars.

54,831. There is only one other point which occurred to me in the course of your evidence. Instead of your third class you suggested the substitution of the second division. It was put very strongly to this Commission in the early part of its proceedings, that there are at the present moment certain public offices in which there is a second division at the bottom and a professional class above, and that the second division in those offices have not whatever expectation of promotion exists in other offices in virtue of the Orders in Council, and the result is unfortunate. I only mention that to ask you really to consider that point of having a class at the bottom of your office which would really be in a different position, and with different prospects, from the same class in other offices?—But would it be the same class?

54,832. The second division?—When speaking of the second division clerks we hoped, of course, that their position would be very substantially benefited by the recommendation of the Commission itself. We would like to see the second division so altered, if necessary, as to make it an attractive and reasonable career for a man possessing the qualifications asked for in a second division clerk.*

54,833. But then you would be up against this difficulty. What is the salary of your present third class?—They are appointed at 100*l.* rising by 10*l.* a year to 200*l.* a year.

54,834. The present second division goes to 300*l.*, and the scale suggested in the earlier Report of this Commission was considerably higher?—But not 600*l.*

54,835. No; but instead of a third class stopping at 200*l.* you would have a second division going up to 300*l.* or 400*l.*?—Perhaps I do not make it clear. We feel that the present third class clerks would have a substantial grievance if they were now barred from going to first class clerks. Whereas if they were given or allowed to understand on appointment that if they were once got rid of by promotion to other departments, or otherwise, they would not be replaced by third class clerks but by the second division clerks who would have a more reasonable opportunity; 200*l.* a year seems to me to be a very low maximum for a man doing that work very well. I should like to see the reward of the second division clerk increased, and opportunities given for a really clever second division man to go further; but if you have a professional bar, as in the Land Registry and all legal departments, and he has not that professional qualification, he does seem to be excluded by the Act.

54,836. So you accept the prospect of a larger expenditure at the bottom of your office?—Certainly, for an improved second division clerk.

54,837. (*Chairman.*) (*To Mr. Byers.*) You have heard the evidence already given this afternoon, some of which applies to the position of the third class as well as the other classes in the office?—Yes.

54,838. Are there any special points which you wish to put before the Commission with special reference to the third class?—A good deal of the ground has already been covered by my colleague. There are one or two things which I think I ought to bring out. He has already referred to the fact that there is no retiring age in the Land Registry, or apparently not; and also informed you that the average age of the first class clerks is 46. The average age of the third class clerks is 39, and our submission is that from that fact alone there is very little opportunity of promotion for us by reason of vacancies in the superior class. The seven third class clerks whom I represent have all done from 10 to 15 years' service.

54,839. Are they all at the maximum of their scale now?—They are all at the maximum of their scale now, and they have been doing practically the work of

* There is some confusion in nomenclature here. The second division clerks I had in mind are the present second division clerks—not the improved class recommended by the Commission. If those recommendations were carried out and a new class of assistant clerks made, these new assistant clerks would be the grade suitable for our routine clerical work.—J. S. S.-W.

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Mr. J. S. STEWART-WALLACE and Mr. E. OWEN BYERS.

[Continued.]

the second class clerks for some time past. I think that point has been made clear already, because the first class clerks have been given the duties of assistant registrars. The second class clerks have, to a very large extent, taken upon themselves the duties of the first class clerks, and the third class clerks have accordingly been given very much more responsible duties to perform, and we believe we have performed them efficiently; so much so, that the registrar has, to some extent, recognised our claim to promotion by suggesting some sort of slight increase in the maximum of the grade.

54,840. What was that suggestion?—That those who had been in the office for 15 years should go up by 10% a year to 250%.; but I should like to point out with regard to that, that what that means is, that a man who, when he was appointed third class clerk, expected to be promoted to a second class clerkship at any rate within 10 years, has got to work 20 years before he reaches 250%, which is the commencing salary of the second class.

54,841. What reason had you for expecting promotion within 10 years?—Because we came into the office under the same conditions as the third class clerks in the Royal Courts of Justice; and, with the experience of the promotions which take place there, we had every reason to expect that promotion would take place within, at any rate, from 6 to 11 years.

54,842. Is it not a necessary experience that in a new office where a large body of the staff is appointed at much the same time a block in promotion is almost certain to result?—I think undoubtedly that is so.

54,843. So that the present block in promotion would appear to be due a good deal to that cause and not to permanent causes?—Quite so.

54,844. Or causes arising out of the nature of the classification or the work to be done?—Yes.

54,845. If the cause of that block is temporary, would it not be reasonable that if a remedy is to be applied it should be a temporary remedy?—I do not quite follow what you mean by a temporary remedy. Can you illustrate that?

54,846. I mean a remedy which would not consist in a permanent alteration of the scales of pay or classification?—Certainly; that might be so.

54,847. You have heard the evidence which was given by Mr. Stewart-Wallace as regards the work of the third class and the proposal to assign the more mechanical work to a separate class of second division clerks or clerks of that character. Have you any observations to make on that suggestion?—No, I have no objection to that at all.

54,848. From your experience of the work of the third class, do you think a clear distinction can be drawn, and is in fact drawn, between work of a more mechanical kind which would be given under that suggestion to the lower class and the work requiring professional knowledge which would be given to the higher classes?—It is a little difficult to know what is meant by "mechanical work." Of course, the work that has been performed by the third class clerks for some time past has been rather more than that. They have had administrative duties to perform, they have considerable responsibility, and they have acquired a good deal of knowledge, particularly of the working of the Land Transfer Acts and the laws which are concerned with it. I think there is certain minor work which could be done by a grade of the kind that Mr. Stewart-Wallace has mentioned—the second division clerk.

54,849. Does the present work of the third class include anything which could be described as examination of title?—No, hardly that. Those of us who are doing legal work are engaged in the work of the possessory title department (we are not all doing legal work). That consists more particularly of a complete knowledge of the Acts and Rules, of the Land Transfer Acts, the Conveyancing Act, the law of Charities and Trusts, and so on. That is the work we are engaged on.

54,850. In registering possessory titles, are there any cases which are entirely dealt with by third class clerks which do not go to a higher class for final approval?—No. The second class clerks do not, except to a very limited extent, settle cases themselves, and we have been for a long time doing the checking work which is settled by the first class clerks.

54,851. Then the work of which you are speaking is preparatory work and checking work. Is that what you would consider the best kind of work which you do in the third class?—Yes, to a very large extent. We are supervising juniors, and they frequently come to us for decisions upon minor matters in connection with the department, and also for advice as to how to do their own work.

54,852. Do you mean juniors of the third class or the assistant clerks?—I was speaking of the junior temporary clerks and the assistant clerks.

54,853. The work done by the assistant clerks is, I suppose, not work requiring responsibility or discretion?—No.

54,854. Is all the work of merely copying entries in books and so on done by assistant clerks?—Yes.

54,855. The third class have no work of that kind?—Very little indeed, now.

54,856. Are there any other points you wish to bring forward?—I think the question of the apprehension is one which we share with our seniors and, perhaps, to a little larger extent, for this reason. As it has been suggested that there should be a professional bar between the upper and lower grades, that loads the dice against us, if we are to be prevented from getting over it unless we become barristers to entitle us to those positions. We came into the office with the full expectation of reaching the first grade, and we do not think that any recommendation should be made, or any reorganisation of the staff should be carried out, which would prevent us from reaching the ultimate maximum of 600%, which it was our normal prospect of attaining when we entered the Service.

54,857. (*Sir John Kempe.*) The Chairman remarked about your delay in promotion being a temporary block only. Of course, you can judge from the ages of those above you what chances you would have of promotion. Would there be a chance before long some day of a large number of places above you being free?—That is just our point. There is none whatever.

54,858. Would the ages above you preclude that?—Quite. The oldest first class clerk is 55, and the senior clerk is 50. The average age of the first class clerks is 46, and the oldest man in the third class is 43. There is practically no opportunity for us to rise at all by reason of a vacancy occurring.

54,859. The average age of the third class is lower, but still it would not be by many years. Your maximum age is 43, and, therefore, your average age is not much lower than that of the first class?—It is the difference between 46 and 39.

54,860. There is not much margin and there is no chance of a sudden flow of promotion?—None whatever.

ONE HUNDRED AND THIRTY-FIRST DAY.

Wednesday, 5th May 1915.

PRESENT :

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN ARROW KEMPE, K.C.B.
 Mr. ARTHUR BOUTWOOD.
 Mr. CECIL COWARD.
 Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.
 Miss HALDANE.
 Mrs. DEANE STREATFEILD.
 Mr. E. W. H. MILLAR (*Secretary*).

The Right Hon. LORD WRENBURY, called and examined.

54,861. (*Chairman*.) My lord, you were for some years one of the judges of the Chancery Division?—I was a judge of first instance in the Chancery Division from 1900 to 1906, and a Lord Justice of the Court of Appeal from 1906 to the present year.

54,862. Before that you had practised at the Chancery Bar?—That is so.

54,863. The first point on which the Commission desire to have your opinion is the question of the method by which appointments are made to legal offices other than the offices of the judges themselves, which are outside the reference to this Commission. At present, as you are aware, the appointments are made partly by the Lord Chancellor, partly by the President of the Probate, Divorce, and Admiralty Division, in some cases by the Master of the Rolls and the Lord Chief Justice, and in certain cases by individual judges. Evidence has been given before the Commission suggesting alterations in that system. One point which has been put before us is that all appointments ought to be made by some Minister responsible to Parliament, and suggestions have also been made for a committee, either to assist the Minister who makes the appointment by examining the qualifications of the candidates and reporting to him, or, according to the suggestion made by Lord Loreburn, a committee actually to make the appointment, with an appeal, in case of dissent on the committee itself, to the Lord Chancellor. We should be glad to have your views on those suggestions, and generally upon the proper method of making the appointments in question?—In the first place, I think there is a class of persons who are so much personal servants of the person to whom they are appointed that their appointments should rest solely with the person who employs them. It would be impossible for anybody, I think, to dictate to a judge who the judge should have as his clerk, and there may be other appointments of that description; and, in what I am going to say, I exclude those altogether.

54,864. The judge's marshal, for instance?—The judge's marshal. There may be other instances. Speaking generally of appointments, my view is this: I hold myself with all work that it is much better done by one person than by a committee of persons. You never get the best work out of five men acting together; you get something much better out of one man. I would, therefore, as regards all appointments, ultimately vest the power of appointment in some one man, and the one man, I conceive, in the case of this class of appointments, would be the Lord Chancellor. Of course, he is a Minister responsible to Parliament, and his acts could be questioned, if there was anything to question, in anything that he had done. But it by no means follows that the sole person whom I would make the ultimate authority to appoint should act entirely without consulting other people. It is perfectly obvious that the Lord Chancellor has very small means of knowing, as regards a great number of appointments, who is the best person to appoint. To answer that question is always excessively difficult; no human being can do it accurately, and I think you have to do the best that you can. In order to obtain the information upon which you are going to act, it seems to me

that the assistance of a committee would be most valuable. The business of the committee would be simply to receive evidence in order to ascertain the facts as far as they could, which might be done by hearing people before them, or it might be by personal inquiry from anybody else, getting their information as best they could. That committee might put the materials which it collected in such a form as to result in saying that they thought, for reasons which they might cite, that X was the right man, and the Lord Chancellor would act upon it or not as he thought proper. It may be that the Lord Chancellor would consider that amongst the people forming the committee, A, upon this particular appointment, was a person more deserving of attention than B, and if A said X was the right person, perhaps he would act upon that. All that would be a question for the Lord Chancellor, but I think, theoretically, the best way of ascertaining the knowledge is to have a body of persons to collect the materials and report upon the materials, and then a sole person who should act.

54,865. Do those views apply throughout: to the clerical appointments and to the minor posts as well as to the major posts, such as masterhips and registrarships?—I do not see why they should not apply to the minor as well as the major. I agree that in the minor appointments probably the Lord Chancellor would simply act upon what he was told, and very little more. But as a matter of machinery and detail, I do not see why he should not act as much in the one as in the other.

54,866. And that would apply, I suppose, to the promotions in the departments as well as to original appointments?—Yes. Of course the objection to it is that it increases the work of an already overburdened official. If all these little things were to go to the Lord Chancellor it would take up a great deal of his time, but I suppose they would go through as a matter of course in the minor cases.

54,867. Theoretically, they do go to him at present, except in certain particular cases, such as the offices of the Probate Division?—That I did not know.

54,868. Under the present system promotions in the legal offices, as well as the original appointments, go to the Lord Chancellor, and, no doubt, are dealt with in fact largely by his permanent secretary?—I should fancy so.

54,869. Do you see any objection to the removal of the patronage, or the power of appointment, which is at present exercised by the President of the Probate Division and certain other judges, to the Lord Chancellor?—If I possessed the patronage—which, happily, I do not—I should be only too thankful that it should be removed to the Lord Chancellor.

54,870. From an administrative point of view, and from the point of view of the proper management of the offices, you do not see any objection to the appointments being made by the Lord Chancellor?—None at all.

54,871. It has been suggested to us that for some, at any rate, of the appointments, specially those clerical appointments which do not require any previous professional knowledge or experience, competition by

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[Continued.]

examination should be applied as a method of selection. What is your view as to that suggestion?—My view, generally, is that by competitive examination you acquire a knowledge as to only a small part of a candidate's efficiency for his post. If you are going to appoint a boy of 18 to something, I think an examination to see that he is a decently-educated person is a necessary and proper step. With higher posts it may be a useful step in order to ascertain what quality of man you have got so far as knowledge capable of being tested in an examination is concerned. But I think when you have taken your examination, and done that, you have only taken one step. Practically, what you want in making every appointment is to learn, as far as you can, the personal qualities of the candidate, and not merely his intellectual qualities, as instanced by an examination for which he has studied. I should like to see an examination used as one of the factors, but only one of the factors, to determine whether the candidate should be accepted or not. As to the other means of information, I agree it is very difficult to follow it out and say how you are going to get it. As I said before, to a large extent you have to act upon information which you can get from friends, or from those who are acquainted with the candidate, and other ways, which you have to use your own judgment upon as to whether you believe it or do not, or whether you think the person is exaggerating in favour of his candidate or not. There your own personal qualities come in, but I think you want to qualify the effects of an examination by what I regard as more important, namely, the particular characteristics of the person which qualify him for the office.

54,872. Something can be gathered as to those by personal interview and personal questions?—Certainly; I should always have a personal interview. I think you can judge a very great deal of a man's character by the way in which he speaks and acts.

54,873. (Mr. Coward.) You are very likely to be led astray sometimes by a personal interview. A man may have a sort of seductive manner which convinces you that he is a very fine person, and very able, and so on, but when you come to test him you find he is a very different person?—I think you must try not to be led astray if you can.

54,874. I only suggest that it is very difficult sometimes?—It is very difficult. I think it is an excessively difficult thing to select the best man for a place.

54,875. And you are very likely to be led astray?—I should not say very likely—quite possible.

54,876. Do not you think so?—No, I do not think so.

54,877. (Chairman.) Then your suggestion would be that for the junior posts for which competition is applicable, you would make a competitive examination part of the method of selection, but that you would combine it with information derived from other sources and also from personal inspection?—Supposing you are going to take a boy of 18, I should examine him to see whether he can write English; whether his handwriting is good; whether he is good at figures, or has learnt any history and various other things, and that he has an ordinary reasonable education. I should then, if I could, go to his schoolmaster and ask him what he thought of the boy, how he behaved at school, and so on. If I had among my acquaintances any boy who was at school with him, I should think him a most valuable source of information, and should ask him what sort of a boy he was at school. I should get his personal characteristics as distinct from his examination characteristics, and upon the material collected I should act. I should see him and form my own opinion for what it is worth.

54,878. The method of personal inquiry would be rather difficult of application if there were a very large number of candidates?—No doubt. I think patronage is excessively difficult myself.

54,879. Taking the case of schoolmasters, for instance, they might have a certain interest in putting forward the best points in their own candidates?—That is quite true. In the case of getting all information, it appears to me it is like the giving of advice. You ask a person's advice, and when he has given it you act upon it or not, as you think proper. You may think he has

advised you badly. You may ask a schoolmaster and he may give a glowing account of the candidate, and you may come away with the impression that he has painted his picture much too brightly, and you must discount it largely. That you must do for yourself.

54,880. Another question which arises, and which is rather closely connected with the question of the method of appointment, is whether the present organisation of the legal offices should be maintained—I mean the organisation where the men are recruited at the bottom of the third class, and are promoted to the two higher classes in regular course (mostly as at present by seniority)—or whether, as has been represented by some witnesses, you should have a different system and have a lower grade for the performance of the more mechanical work, the keeping of books, lists, accounts, and so forth, and a higher grade where higher qualifications are wanted for better work, and make it a matter of exception and not of regular practice, to promote from the lower grades to the higher grades; in fact, whether you should recruit at two points instead of at one. Are you prepared to express an opinion on that suggested alteration?—I can only give my opinion as that of the man in the street. I would never myself put a human being into any position from which he was told he could not rise. I would recruit from all sources from which I could obtain candidates, and I would not exclude any man from the possibility of rising. I would, therefore, not have third class clerks who should be engaged upon the terms that they should never move into the second class. I would let it be open to every man's ambition to rise from the third to the second, if he showed himself worth it. I think you get the best work out of human beings by putting them into a position and saying: "Now, if you show yourself worthy of something better you shall have something better." I want the best man I can get in every place, and I would, therefore, never have a class which is stigmatised, and is marked with an indication that that class is not fit to rise. I do not know whether that answers your question.

54,881. I think there was no suggestion that the door should be absolutely shut. If there was a man of exceptional ability in the third class he would not be excluded from promotion to the higher classes?—I do not see why you should qualify it in that way.

54,882. The suggestion was, that for the higher classes you want men with better education than is required for work in the lower class, and also men with a certain amount of professional experience and knowledge, and that a man who had entered at the age of 18, say, and had been doing the mechanical clerical work of the third class, would not have acquired ordinarily those qualifications and, therefore, would not be the man to be selected for the higher classes?—Do you mean that the social question comes in, that the university man, say, in a higher class, would resent having placed on an equality with him a boy who has been a national school boy?

54,883. No. I do not think the social question is in view. It is a question rather of the educational and mental qualifications—whether the man who, with a primary education only, had entered into a class which was occupied with mechanical and clerical work, and had done that work for 10 years, would have the necessary qualifications for the better work which would be done by the higher classes?—He might or might not. If he had, you would promote him; if he had not, you would not.

54,884. At present, practically, he is promoted whether he has it or not?—Then I think that is quite wrong.

54,885. The question is whether you would not get a more suitable class of man in the higher classes by making the normal method of appointment direct to the second class?—But that raises the whole question of promotion by seniority *simpliciter* without anything else.

54,886. That question is involved also?—I think promotion by seniority *simpliciter* is wrong, that seniority should count amongst other things, yes, but for every place your business is to get the best man for that place. If the senior is the best man, or if he and

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[Continued.]

another are equally good, I should give the post to the senior man, but I should only make seniority one amongst other qualifications.

54,887. (*Mr. Coward.*) You do not select a man at the Bar to conduct a case because he is an old gentleman?—Not always. You want the best article for that job.

54,888. (*Chairman.*) Under the present system, where the normal method is promotion from the lower classes, it would be regarded as a hardship in the third class if anybody was brought in from outside to appointments for the higher classes?—There is only one argument for promotion by seniority that I know of, and that is, that it is supposed to lead men to work well, knowing that if they do in course of time they will go up. That appears to me to be fallacious, because if a man knows that he will go up because he is senior, there is no particular incentive to work. He has only to wait for years to elapse; the mere flight of time qualifies him for a higher class. I do not think flight of time qualifies a man for anything; it is a question whether he is the best man for the place.

54,889. You would apply the method of promotion by merit throughout?—I would, bearing in mind, of course, that seniority certainly presents some claim, and that a man who has done good work for years is not a person to be ignored.

54,890. If it was a question of a vacancy in the second class and you thought you could get a better man from outside than you could find in the third class, would you appoint him from outside?—I should certainly go outside.

54,891. And that principle you would apply throughout; you would reserve free liberty to appoint from outside to the higher classes if you thought you could get a better man in that way?—I would. I have no regard for vested interests.

54,892. Turning to quite a different point, the question of organisation: The Commission have had a good deal of evidence as regards the present organisation of the Chancery offices, and in particular on the question of whether the Chancery Registrars' Office and the Chancery chambers should be kept separate as at present, or should be amalgamated. As you are aware, that question has been reported upon by several Commissions and Committees—such as the Esher Committee in 1886, and the Kekewich Committee in 1907. We should like to have your views on that question?—I start with a proposition which seems to me to lie at the root of this. The work of the master is judicial work; he is a subordinate judge; he has to determine questions and give decisions upon the matters which are brought before him. His position is judicial. The position of the registrar is not judicial at all; he is a recording instrument. The business of the master is to do something; the business of the registrar is to record what somebody has done. Those two things are in their quality essentially different. The Chancery orders, not all of them of course, but many of them, are of so complicated a nature that you certainly require a skilled person to draw them. I should have been very sorry myself as a judge, if I had had to draw my own orders; I am sure I should not have been competent to do it. The registrars have acquired a knowledge of the proper way in which orders ought to be drawn in order to carry out the complicated rights which often arise in Chancery proceedings. I think you want a skilled body of men to draw orders of that description. Of course, it is not every order which is of that description. Many orders are alphabetically simple. An application is made by a defendant, say, for further time to deliver his defence and he gets ten days; anybody could draw that order, of course. There are orders of all descriptions, from the simplest order for time to the most complicated order in a suit to determine priorities as between mortgagees and incumbrancers of various kinds and to work out their rights. I think, therefore, you certainly require to maintain a body of skilled persons, whose business it is to draw orders. I further think that there is at present a great deal of waste of time and energy in sending orders from those who make them to those who are to draw them. If you are

going to draw an order you must understand what the case is about. The master before whom it has been known what it is about. The registrar, if he has to draw the order, has to learn what it is about; that may take time, and it is a great waste of power to ascertain it over again. It seems to me, therefore, that the two classes of work which I have described—the judicial work and the recording work—run into each other, in the sense that the registrar who ultimately records only puts the crown on to the work which the master has judicially done; it is the finish of the master's work, and the finish may often best be done by the man who has done the spade work at the bottom, as the one leads to the other. I think the views which I have been suggesting lead rather to this, that you ought to have these two classes of work brought into close touch with each other, which would mean one office in which both persons should be found, but that that office, as between the persons who are acting within it, might very well be divided into persons who are doing two different classes of work. The master should, so to speak, have the registrar at his elbow so as to put down the order at once; but it does not follow that the master should necessarily draw the order. In that office I do not see why in course of time there should not be persons who are equally capable of doing both works—the judicial work and the recording work. They are both quite within the capacity of one man. But it does not follow, I think, that one man ought to do both, for this reason: I think there is no greater opportunity for waste of time than that a person should not be able to take up a job and finish it. To postpone a case always creates delay and expense. Therefore you want, let us say, the master who is hearing matters judicially to be free to take up and continue and complete his judicial operations without interruption. If a master is going to be a master this week and a registrar the next, he will not be able to do so; his time will be so cut up that he will not be able to give his appointments in advance. Probably, therefore, in the office which I contemplate it would be better, I should suppose, to have men who were doing the judicial work and men who were doing the recording work; but that is mere subdivision of the office. I should have thought theoretically that the best thing would be to have one office in which the parties were in close touch with each other, and to leave them to settle between themselves whether the particular order which is in question is a mere order for time, which the master would draw for himself or his clerk would draw for him, or whether it is a complicated order which ought to go to the registrar, and, if so, he would send it to the registrar, who would be in the next room and who could sit with him, if necessary, if worth while, to hear the case if it would save time. The two branches of work are different, but closely connected one with the other, and would be best done in one office with such facilities of communication between the people in that office as experience showed to be right.

54,893. That would remove the inconvenience and delay which it has been represented to us sometimes occurs where questions are raised by the registrar and the matter has to be referred back to the master and discussion has to take place between them?—I am supposing that the registrar is sitting in this room and the master in the next, and if any question arises the one goes and speaks to the other; that is all.

54,894. If you had the two offices brought together in that way, it is probable that some saving of force might result?—I think so, certainly.

54,895. (*Mr. Coward.*) The more complicated orders are always drawn by counsel, are not they, speaking generally?—No, I do not think that many complicated orders are.

54,896. I mean the minutes of the order?—Sometimes, but not very frequently. The application generally follows at the end of the case: "Does your Lordship think that Mr. A. B. should sign the minutes?" and the judge would say, "No, I do not think so; the registrar can do it"; or he would very likely say, "Yes"; but that application is not made every day.

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54,897. I am only speaking of cases of some difficulty in which the orders are difficult. Dealing, for instance, with those applications under the Trading with the Enemy Act which are now proceeding, every one of those is drawn by Mr. Austen-Cartmell?—I will not say what my view upon that is.

54,898. Some are very curious and very complicated?—There may be some.

54,899. (*Chairman.*) Your opinion is that there is nothing in the nature of the work which makes it impossible for the same man to acquire the knowledge which makes him capable of performing the work of a master and the work of a registrar?—No.

54,900. Another part of the registrar's duty consists in sitting in court?—It does.

54,901. The Kekewich Committee made a recommendation upon that point, and suggested that it would be unnecessary for the registrar himself to sit in court when witness actions were being taken, and we understood from Mr. Registrar Farmer that that is now the practice—that the registrar can send his clerk into court in case of witness actions. But it appears to be still the rule and practice that the registrar himself should be present in court when all other kinds of business are going on. Do you think it necessary that that rule should be maintained, or should that change be carried further, and a clerk be substituted for the registrar in any other case besides witness actions?—When witness actions are being tried the work of the registrar really is largely mechanical; it is merely the swearing of witnesses, the marking of documents, and work which could very well be done by a clerk, and it is not necessary for the registrar to be there. There are other days when I think it is certainly essential that the registrar should be there; for instance, on motion day a great number of orders are made, and very few words perhaps are said, and what is intended would not be appreciated by any person not familiar with the proceedings of the court; I suppose the ordinary spectator would not have the least idea of what was going on. On petition day, I think, the case is even more largely true. Petitions are now very few in number, but orders on petitions are exceedingly complicated and difficult. I think when motions are being heard, when petitions are being heard, and when adjourned summonses are being heard (to which it applies in a less degree), the registrar ought to be in court. When witness actions are being heard, I think a clerk can equally well do it.

54,902. Do the various kinds of business you have mentioned other than witness actions cover the whole of the kinds of business that come before the court?—Motions, petitions, and adjourned summonses—yes, I think so.

54,903. In fact, you would draw the line where it is drawn at present, and say that the registrar need not be present in witness actions, but in all other cases he should be present?—Yes. I may say I noticed somewhere in the evidence it was said that the registrar ought to be there because the judge from time to time consults him on points of practice. In my experience it is not in the least necessary that he should be there for that purpose. I do not think I consulted a registrar upon a point of practice twice in the course of the six years or more when I was sitting in court. When I was counsel I do not remember a judge referring to the registrar more than the number of times you might count on your fingers.

54,904. (*Mr. Coward.*) I looked at the report of the case of *in re* The New Zealand Land and Mortgage Company, which was a question about vesting shares, and I see Lord Justice Lindley referred to the registrar, who told him something about the order in such a case. That is very curious, but it is very rare?—Such things are known, though the occasion is very rare, and if a judge wanted assistance in that respect he would simply send for the registrar, just as we sometimes send for a master when some matter is before us which has been before the master. It is very easy if you want a man to send for him.

54,905. (*Chairman.*) What is it that makes the registrar's presence in court necessary in the class of business you describe?—The judge takes no note of the order which is made; that is the registrar's

business. The judge does nothing of that sort; he has no record, and the week after will not know what he has done. It is the registrar's business to record exactly what has been done. You may have a contest between counsel, one saying it was this and the other that, and you refer to the registrar's note to see what was done.

54,906. (*Mr. Coward.*) And if there was any question about it, the judge would determine?—The judge refers to the registrar. The judge does not remember or may not remember. When there is some question as to what was done, the registrar's note is the only authoritative note. On motion days and summons days when matters are coming on quickly, it is essential to have a person who understands what is going on to take a correct note of what the result was. He is the only person who protects the judge from the subsequent assertion of counsel on either side that it was this or that.

54,907. (*Chairman.*) Would you say that for that purpose it is necessary to have a man of the calibre of the registrar himself. Would not his principal clerk be capable of doing that work?—I am not competent enough to say how expert the principal clerks are. You want to have a person who is acquainted with the work of the court, understands the business which is going on in the court, and can correctly record the action of the court.

54,908. (*Mr. Coward.*) There is sometimes a shorthand writer taking a note of the order made by the judge, and, if there was an official shorthand writer, would not the taking of that note quite suffice for this purpose—an official note I mean?—Certainly an official note would be a more complete record than the registrar's note.

54,909. (*Chairman.*) Another point to which the Commission's attention has been called is, that in the Chancery offices, speaking generally, the staff is what I may call more top-heavy than in the other offices. Sir Kenneth Muir Mackenzie described it in this way: He said in most offices the staff is arranged pyramidally with the base down, and in the Chancery offices it is arranged pyramidally with the base upwards?—In what sense?

54,910. In the sense that the number in the higher class in the Chancery offices is very much larger in proportion than in the other offices?—You mean 12 registrars and 1 third class clerk. Is that the sort of idea?

54,911. It is roughly in that direction. In the Registrars' Office there are at present 9 registrars, 6 clerks to registrars, 4 second class clerks, and, I think, 10 third class clerks. In the Chancery chambers there are 12 masters, 24 first class clerks, 12 second class clerks, and 12 third class clerks; that is to say, you have a larger number, especially in the Chancery chambers, in the higher offices than in the lower. Each master has 2 first class clerks, 1 second and 1 third class clerk attached to him, which is rather a reversal of the ordinary proportion. The question is whether there is any peculiarity in the work of Chancery which justifies that difference in the classification?—I do not think I have any opinion upon that at all. It depends upon how much there is of the mechanical work as compared with the work next above it, and so on. I do not know how that is.

54,912. That is the point. On that point you are not prepared to express an opinion?—I have no opinion at all.

54,913. It has also been suggested—and this is a point on which a recommendation was made by Mr. Justice Pearson in 1886—that there should be an intermediate grade between the masters and the first class clerks, something of the nature of assistant masters. I think for them Mr. Justice Pearson suggested a salary of 800*l.* to 1000*l.* as compared with the master's salary of 1,200*l.* to 1,500*l.* They would take the simpler and shorter matters which are at present dealt with by the masters. Are you prepared to express any opinion on that suggestion?—I do not think I have any view at all, beyond this: If an action is before a particular master he knows something about it, and therefore, I should have thought it saved time if he should even take trifling orders in that proceeding rather than send

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them to somebody else who, by hypothesis, knows nothing about it. It does not follow that you are wasting time because you employ, say, a first class man to do second class work from time to time, if it is conveniently combined with his first class work; but it is a matter of detail in the office upon which really I have no opinion.

54,914. A further point on which we have had evidence is whether it would be desirable to fix a limit of age for retirement, both in the case of masters and in the case of the clerical staff. The suggestion has been made that in the case of the clerical staff the ordinary Civil Service rule should apply, which is, that a man may retire on pension at the age of 60, and that he must retire at the age of 65, with power to the higher authorities to prolong his service in exceptional cases to 70. Most witnesses who have given evidence on this subject have suggested that in the case of the judicial and semi-judicial offices, such as the master-ships, the limit should be higher, and 70 has been the usual age suggested. What is your opinion on that question?—I would fix a limit of age for everybody with power to invite the man to go on if he is a person whose services you still consider of value. I do not at all think it is well that a man shall go on after his capacity has diminished. I would arrive at an age, which it is difficult to fix, no doubt, at which his capacity would presumably be diminished, and I would have full power given to ask him to go on, but I would name a limit of age for everybody. As regards judicial work, I think myself 70 is not too long. I believe doctors will tell you that the brain improves after the muscles have begun to decay. I think brain work is often very well done until latish in life. I do not think the age of 70 too long for judicial work. As regards the other work, I do not know why 70 is too long for the man whom you propose to retire at 65, but 65 may be a more reasonable age for other work, though in the case of everybody I would take the power to invite them to continue.

54,915. Returning for a moment to the question of the staffing of the Chancery offices, another point which has come up in evidence is, that the work of the Chancery Division has very considerably diminished in the last 20 or 25 years, and some witnesses have expressed the opinion that the staff in the Chancery offices is unnecessarily large. Are you prepared to express an opinion on that point?—No, I know nothing about it.

54,916. (*Mr. Graham Wallas.*) You told us that it is necessary for the good conduct of public business that the judge should appoint anyone who is so personally and intimately brought into contact with him as his own clerk?—Yes.

54,917. Normally, the same clerk serves a judge throughout his period of service, does he not?—Yes.

54,918. When the judge dies or retires is not there from time to time a certain difficulty as to what to do with his clerk—a man who has done good work?—Yes.

54,919. There is no post obviously open for him?—No.

54,920. And some pressure is brought to bear that some personal use of patronage should be made in his case. Have you any solution of that difficulty in your mind?—The position of a barrister's clerk—and, of course, the judge's clerk is the successor of the barrister's clerk—is throughout one of peril from the day he begins. If he is thrown out it is almost impossible for him to get in again. During his tenure of office, if his master be successful, he receives very considerable emoluments—in certain cases emoluments much too large for his merits: but at the same time, in other cases he receives but a small emolument. It is a most dangerous calling, most fluctuating in its receipts, and most perilous in that it may come to an end, and there is no opportunity at all for his finding another place. It may be said that inasmuch as the receipts are large during his tenure of office the man takes the place with a risk. I think that is true. I do not know that he has any ground of complaint because when his service comes to an end he finds himself stranded; but that is a feature of the employment. At the same time, it is the fact that when the judges' clerks or the barristers' clerks do lose their occupation they are a class of persons who are certainly

of value, they are men of affairs to a large extent, many of them write shorthand very well, they are acquainted with accounts, and certainly they are very useful people to get into other employment, and therefore I would give every facility for opening other employment to them; but I do not think you can do more. I would look upon them as persons who from their service are deserving of recognition, and who you would expect to be capable and efficient people in certain walks of life, and I think it would be very desirable to open other avenues of employment to them, I mean of benefit to the State, and, of course, of benefit to themselves too.

54,921. (*Mr. Coward.*) What class of employment could you suggest for them? Would not you say that it is rather the duty of the counsel who has had the services of the clerk to see that he is provided for than the State?—I quite agree. Certainly, he has been his personal servant all his life, and like all of us would do with an old servant the primary duty rests upon the master to see that he does not want.

54,922. It is difficult to find any employment which a barrister's clerk would be competent for except that of a barrister's clerk?—I do not agree at all. I think many of them—I will not say they are accountants, of course—are very conversant with figures and have been dealing with them all their lives, and they take up accountancy work very readily. Many of them are good shorthand writers, and they are people who, I think, would be exceedingly useful in I do not know what class of work.

54,923. Perhaps my class of work, if they were good shorthand writers?—Certainly in your class of work. Many of them write shorthand very well now. The judge's clerk is a man who is presumably an honest man, and been known all his life as an upright person, who has a considerable amount of education—I mean his associates have been such that he acquires a certain amount of gentlemanly bearing, and so on—and as a shorthand clerk he would be valuable, and I think in appropriate service he would be found an exceedingly useful person; but unfortunately now he is not in touch with anything; he cannot get into a place which would be suitable.

54,924. (*Mr. Boutwood.*) Does all that you have been saying apply equally to the judges' clerks?—The judge's clerk is but the barrister's clerk continued; it is a prolongation of the same person.

54,925. (*Mr. Graham Wallas.*) Mr. Coward asked you whether certain difficulties in the Chancery Division might be got over if there was an official shorthand writer. Did I understand you to think that on the balance of advantages it would be a good thing that such official shorthand writer should be appointed?—I would certainly not have an official shorthand writer merely for the purpose of superseding a registrar. All you would get would be every word that was said as distinguished from a summarised note, which is what a registrar would take. It would be a mere waste of paper and ink.

54,926. An official shorthand writer might be useful for other purposes?—Yes.

54,927. Speaking generally, do you think it useful that such an official should exist?—That scarcely arises out of the point about the registrars. I would not have a shorthand writer to supersede a registrar.

54,928. But have you any opinion to offer as to whether, for the many duties for which such a man would be useful, it would be desirable to have him?—But is it part of the business of the Commission to go into the general question as to whether there should be official shorthand writers? It is a very large question.

(*Mr. Coward.*) It is a very interesting one.

54,929. (*Mr. Graham Wallas.*) You told us that throughout the whole of the Service into which we are inquiring, it is desirable that everybody when he first enters should feel that the whole Service up to the top is open to him; that he should have the marshal's baton in his knapsack?—Quite.

54,930. Of course that principle would be general to the whole Civil Service and not merely to the Judicial Service?—Yes.

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54,931. That would imply that a man who would become Under Secretary of State should normally enter at the bottom of the Service as a boy clerk?—I do not think that follows.

54,932. That is the distinction I want to ask you about. Would you agree that under normal circumstances the man who is to be Under Secretary of State at the end of his career should enter rather later in life, after a more prolonged education, and should be a man from the beginning with rather more unusual and rather more extensive personal ability than the man who enters as a boy clerk?—It seems to me that that is a question which would work itself out in the course of events. It would be open to everybody to become Under Secretary of State, and it is exceedingly improbable that a person who began at 5s. a week, or something like that, at the office, would ever rise to that dignity. He might.

54,933. I know; but even supposing it is well understood that every post in the office is open to everybody, those who organise the office have to arrange whether they will recruit the whole office at one age and one educational stage, or at different ages and different educational stages?—According to my view they would of course, recruit at different ages every time. Say that the posts are numbered from 1 up to 10, and No. 6 falls vacant, to supply No. 6 you would go to Nos. 7, 8, 9, or 10, or to the outside public, or to any other source open to you, but a man might come up from No. 7 or not; he might come from outside.

54,934. The question whether you go to the outside public, and by what means you go to the outside public, and the type of man you want from the outside public, is a question for which provision has to be made beforehand. You have to have a deliberate arrangement, and you cannot settle it purely on each individual case?—No.

54,935. Would you treat the filling of every vacancy in an office as creating a new problem on methods of administration and methods of selection. Should the question whether you selected someone who came in as a boy clerk, or whether you held an examination and selected a man from outside, be settled in each case purely as if that case stood alone?—I am afraid I do not quite follow the question which you ask me.

54,936. If one takes an extreme case in the Law Courts, say, which would be presented by the fact that the officials in the Law Courts range from the messengers up to the judges, it may be argued that every messenger should feel that when he enters he may possibly become a judge; but arrangements are in fact made which presume that normally a judge will have been a distinguished barrister before he is appointed, and that the messenger will not. Does not that equally apply to the men who do the more mechanical clerical work of an office and the men who do the higher forms of intellectual work in the office?—I really do not know quite how to answer that question except by taking an instance: Supposing a messenger comes in and is employed as a messenger and then becomes an usher, if he is going to aspire to sit upon the Bench, he must leave his post as usher to pursue his studies and be called to the Bar, and if he does so and takes up another career he may end by being on the Bench; but that all depends upon himself.

54,937. The question of the training which the man gets depends upon himself and his circumstances, but the question of what training should normally be considered as constituting the right preparation for a particular office is a matter which would have to be settled more or less by general considerations and by rules, would it not? For instance, that a judge should have been a barrister?—Obviously.

54,938. And that a man who is at once going into, say, the Diplomatic Service, should have a high acquaintance with languages?—You might almost say that a person who was going to be a clerk should be able to write—Yes, certainly.

54,939. And therefore when you are constituting a Diplomatic Service you have to face the fact that normally the man who comes in as a boy clerk to do the clerical work in the Foreign Office when he is about 16 years of age, will not have the necessary

exact knowledge of foreign languages which would enable him to be a secretary of embassy later on?—If he was a sensible person I should think he would realise that fact.

54,940. You can see that that fact might also be realised in the judicial service?—Certainly.

54,941. That normally a man who is appointed as a third class clerk should not look forward to the higher intellectual work?—I should say that if a sensible person he would see it, but I do not think it affects any scheme at all.

54,942. You told us that in so far as you would use an examination for the Service, you would use a pass examination and confine the real competition, I understand, to the steps that would be taken to ascertain the personal qualities of the candidate?—No; I would not have a pass examination. I would have an examination of such a searching nature as I thought right.

54,943. But you would not allow it to be a competitive examination in the sense of the appointment depending on the result of it?—I would not examine with the promise that I would take the first man. I should examine on the footing that the results of an examination coupled with other facts would determine my choice.

54,944. That, again, is a question general to the whole of the Civil Service. You probably know that that proposal has from time to time been made with regard to the whole Civil Service, that the Civil Service examination should be treated as only part of the evidence, and that there should be personal inquiry and selection after it. Some steps were taken 40 years ago, indeed, to try to bring that about, but you know it has been dropped. At present, while careful personal inquiries are made to ascertain whether the character of a candidate comes up to a certain standard, the real competition between candidates for appointment takes place on the examination?—Yes.

54,945. Would you, on the whole, apply the principle you have just laid down to the whole Civil Service or only to the Judicial Service?—You are asking only my personal opinion as to how to find the best candidate in any case?

54,946. Yes.—I say I should seek for my candidate by combining the results of the examination with other sources of information.

54,947. (*Mrs. Deane Streetfeild.*) You said you would propose filling a vacant appointment perhaps by appointing someone from outside the Service. Would not that be likely to create a difficulty in that the people who are in the Service would feel, perhaps, that the plums of it were likely to be given to outsiders, and it would discourage members of the Service if they had no hopes of rising steadily?—My hope would be that it would encourage them the more, because if they knew that they had the competition of the outside they would try to show themselves the more worthy inside.

54,948. Then am I to understand that an outsider would not be appointed unless there was no one inside the Service who was competent to fill a post, in your opinion?—I do not say that. I should recruit all my candidates, whether from inside or outside, with a view to getting the best possible man for the job. If I found that there were two practically equal I think I should give the preference to the man already in the Service, because he had already done service and was entitled to promotion if fit for it; but if I found the man outside was a better man for the job, I should pass over the inside man and appoint from outside.

54,949. How would you do that? Would you advertise?—I do not think I am prepared to give an opinion upon that point.

54,950. I was trying to think of it in practice?—I do not know that I am giving you any evidence of any value. I am merely stating theory, and not practical work.

54,951. But you think it would not tend to deteriorate the Service itself and be disheartening?—I should hope that it would raise the Service.

54,952. (*Mr. Coward.*) I should like to ask you a question that causes me much heartrending. I do not understand myself what the answer to it is, and if you could give me one I should be very grateful: The point

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is, how best to arrange for the organisation of these offices. The work must be done, and it should be done efficiently. That is a thing upon which we all agree. Secondly, I suppose you would agree that numbers is not at all a necessary thing in having efficient organisation?—Do you mean a sufficient number of clerks?

54,953. Yes; if there be inefficiency it would not necessarily be got over by numbers?—No.

54,954. I see in the courts, if you take the Central Office and the Chancery offices, including the Registrars Office and the Taxing Office, there are 207 people employed. The question that is a great puzzle to me is how to ascertain whether those people are necessary, and who are surplus members of the body and how to understand who they are. Take, for instance, the Central Office; there are there 7 masters, 2 assistant masters, 11 first class clerks, 28 second class clerks, and 28 third class clerks—that is 76 altogether. Taking that office, here are these 28 third class clerks, and I have never yet been able to ascertain from any one of them what is their day's work, or get them to explain what they do in a day's work, and I am afraid, perhaps, your experience may be something like mine, that you do not know what these gentlemen do?—I have not the smallest idea. I have never been into the Central Office, and I do not know what a third class clerk does or what a second class clerk does.

54,955. That is my trouble, and I do not know how it is to be ascertained. There is nobody who has the direction of the thing so as to say we want so many clerks for any particular work?—Are there no statistics kept of the hour a man comes in and goes, or what he does?

54,956. These gentlemen have very short hours and very long vacations. I have asked several here if they could give me an account of a day's work, and I have not yet succeeded in getting from any one of them what they have to do. I was really asking you a rather hopeless question, I am afraid. I do not know myself that I can expect much aid?—Really, you would have a much better opportunity of learning it than I should. I should have thought, through your clerks, who are in and out of the offices and so on, you could learn what I have no means of learning.

54,957. (*Miss Haldane.*) I want to ask you whether you have any views about the age at which the third class clerks should be brought in?—I am afraid I have no experience that would answer the question. I do not know what they do.

54,958. We have had evidence that they might be brought in at the end of their secondary school career. Is that about your idea?—I do not think I can say anything of any value. I do not know what their work is, so I do not know at what age a man or boy would be competent for the work.

54,959. You were talking just now about getting the school record from his schoolmaster and so on, and that would imply that he had just left school?—I only gave that as an illustration. You want to get information from the person best able to tell you the personal characteristics of the individual.

54,960. I had in my mind whether anything such as we have in Scotland to a considerable extent, namely, a certificate on leaving school, which is not wholly an examination certificate, but a record certificate of how the boy has done right through his school career, plus an interview, might be a good system of admission?—I should think that would be very valuable indeed.

54,961. I quite see your view, and everybody's object is to get the best man; but the difficulty is that if you do not have competition, how you are to secure that best man?—I agree.

54,962. I suppose you would make the appointments known in a way that they are not known just now, whether by advertisement, or some other way?—Yes.

54,963. Then you would have probably an immense number of applications; but the difficulty is, when you do not have competition, to determine which is the best young man to bring in?—I do not want to abolish competitive examination, but I do not want competition to result in the first, second, or third man having the place. I should make my examination a very significant test, but only one of many tests, and I

should endeavour to add to it, if I could, that which I could learn about the man apart from his capacity in an examination; but I agree that it is excessively difficult to do.

54,964. That is the practical difficulty one feels. We have discussed this a great deal on this Commission. These are the practical difficulties, and you have no particular views as to how to get over them, except to make the appointments known in a way that they are not publicly known at present, trusting to get the best men by a competitive examination plus interview?—That is my view.

54,965. (*Sir John Kempe.*) Your lordship has given us your general view as to the best way of recruiting the clerical part of the Service. You have not given us, as far as I can see, any reasons for not admitting, in the case of the Law Courts, the ordinary method that is employed in recruiting for the Civil Service, that is, by open competition. I do not know whether you recollect the state of the Civil Service generally before open competition was established, and the weaknesses which developed then. One was that you got into an office a staff which was very uneven; some men were very good, some men were very bad, and the result was you had great waste; you got more men in the office than you needed. There were a few good men but a great many more bad men. In the present system you get a very good general level. Is there anything in the legal work which occurs to you as being against adopting that system in the Law Courts?—Do you mean as regards the lower class?

54,966. The lower class only—the first, second, and third class clerks?—I think an examination is useful in every case.

54,967. Open competition?—Yes; but competition is generally understood to imply that when you have held your examination you are going to act on that alone?

54,968. Yes?—After I have held my examination I should regard my examination as a most valuable guide, but I should not say it was going to determine my appointment.

54,969. At the present time in the Civil Service it does not absolutely govern the appointment, because searching inquiry is made after the examination to see that they are the right men. Would not that satisfy you as being enough?—I do not see why the legal clerk is to be selected on a different principle to a commercial clerk or a Treasury clerk.

(*Chairman.*) But those inquiries are merely for the purpose of ascertaining that a man is of good character and in good health. It does not in any way discriminate or select a man lower on the list to be preferred to a man higher on the list; it merely rejects certain persons who do not come up to a sufficient standard of character or health.

54,970. (*Sir John Kempe.*) That is true; but you must have some way of selection, and the way of selection in the Civil Service is to get the man of most ability, provided otherwise qualified, and I do not see why it should not be the case in the legal departments. I have seen a good deal of the Civil Service departments and something of the legal departments, but not so much. It appears to me that the Civil Service work, on the whole, presents a greater variety, perhaps, than the legal departments. The work of the legal departments never rises above a certain level; a great deal is form, and it seems to me that it is just the kind of service which could be filled up by men of a general level. You can apply them to the work better if you have instruments even all through, just as the ships in a fleet have to be of the same standard in order to act properly. If you have all your men of the same quality you can apply them to the work much better than if you have a few good and a few bad men?—I should myself regard it as better than if they were all of even quality that some had shown themselves superior to others. I should try to have no inferiors, but I should be quite glad to get some superiors.

54,971. Is there much work in the department which requires very great superiority of work clerically?—I suppose the legal work, however humble it may be, requires some knowledge of the law, and that is skilled work.

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[Continued.]

54,972. Certainly; but not the same work as a barrister or an advocate has to do?—Not at all.

54,973. It is clerical work, after all?—It is largely clerical, I suppose; but I really know very little about the working of the offices; a judge sees nothing of it. I am not speaking from any personal knowledge at all.

54,974. All I wanted to get at, really, was whether you had any reason against the adoption of the Civil Service method. It appears that you have not considered that question much. You have no objection to the Civil Service system?—I suppose the object of the Civil Service system is to find the best man for the place, and, if so, I think it is perfection; but whether you get the best man for the place by saying, "I will examine you, and if you are first, second, third, or fourth, you will get a place, and if you are fifth you will not," is a thing which I doubt.

54,975. Because you attach more importance to the personal character than the intellectual character of the man?—I do not say more. I attribute importance to both, but I think you may get a man of considerable intellectual ability who may be useless to you—a shiftless, idle fellow, inaccurate, and not trustworthy. I would far rather have a more stupid man upon whom I could always rely to give me his best.

54,976. That is to say, you would judge of his character?—Yes.

54,977. There is one particular difficulty I see about retaining the third class and filling the higher posts from it. You would hardly ever get enough men in a lower class to put into the class above them if you limited yourself to promotion from the third class?—Nobody proposes to do so, I understand.

54,978. For that reason you propose to mix them?

Nobody proposes to confine themselves to any particular class. All that is suggested is that no man should be excluded from rising because he is in a particular class.

MR. W. J. BANNEHR, MR. H. F. BLAKE, MR. A. W. PORTER (Clerks in the Supreme Court Taxing Office), called and examined.

54,983. (*Chairman.*) (*To Mr. Bannehr.*) You are a first class clerk in the Taxing Office of the Supreme Court?—Yes.

54,984. How long have you served in the Taxing Office?—Since October 1878.

54,985. What had been your experience before that?—I was educated at St. Saviour's Grammar School, Southwark, and I had been in solicitors' offices from the age of 16 until 1878, when I was nearly 25 years of age. I had had rather a remarkable experience as a very young man, because the last office in which I was for five years was a small office, and my principal left all the working out of his practice practically to me, and I had to find out from books and reading and by the help of counsel what had to be done, and I did it. It was unusual, I believe, to leave responsible work to so young a man, but I had that responsible work and I did it. The appointment in 1878 was in the hands of the Lord Chancellor, but he had not at that time interfered with the old practice, under which the taxing masters appointed their own clerks, and Mr. Drew practically appointed me. I know that he made inquiries of many men, because he wrote me to that effect.

54,986. You were appointed in 1878. How many years did you serve before you were promoted to the first class?—I was appointed to the first class in 1894.

54,987. That is after 16 years?—Yes.

54,988. (*To Mr. Blake.*) You are a second class clerk in the Taxing Office?—Yes.

54,989. What was the date of your original appointment?—1891.

54,990. And you were promoted to the second class, in what year?—In 1899.

54,991. That is after rather more than eight years' service?—That is so.

54,992. Had you been in a solicitor's office before appointment?—I was at Cambridge University and was

54,979. That is the reason for your proposal for selection by committee or otherwise at any point in the career of the clerks and not confining yourself to promotion from grade to grade?—I do not think that is the reason for it. I think it is a matter which works in with what, it seems to me, best to do for the purpose of finding the best man.

54,980. (*Chairman.*) There is one point I should like to ask you in connection with the question of the Chancery registrars and the Chancery masters. The Chancery masters are organised in three groups attached to the three groups of judges. It was suggested by Sir Kenneth Muir Mackenzie that, if the registrars were combined with the masters, it would be necessary to fit them into the organisation and attach the registrars to the three groups. Mr. Registrar Farmer took objection to that, and said that he thought it would be a great mistake to attach particular registrars to particular groups, and that it would, for reasons which he did not very clearly explain, destroy the independence of the registrars. Do you consider that it would be necessary, if the two offices were thrown together, to adopt the group arrangement for the registrars also?—I do not think the group arrangement is necessary in any case. I think myself that, where you want to ensure uniformity of practice, it is desirable that everybody should be in touch with everybody else from time to time, not that a judge should be combined with a particular three or four masters to the exclusion of other six or eight masters, but that all should be in contact with each other from time to time, and that they should all rotate.

54,981. Then you would prefer to do away with the group system altogether, so far as the masters are concerned?—Yes.

54,982. If that was done, the objection, whatever its value, which was taken to dividing the registrars into groups would not apply, because they would not be grouped?—It would disappear.

an articulated clerk, and I am an admitted solicitor, but only had three years' articles.

54,993. During those three years you were in a solicitor's office?—Yes.

54,994. (*To Mr. Porter.*) You are a third class clerk in the same office?—Yes.

54,995. Had you been in a solicitor's office before appointment?—For over 10 years.

54,996. What was your age on appointment?—26.

54,997. And you have been in the office for how many years now?—Nearly 11 years. I might say I have prepared a table showing the previous qualifications of the whole of the staff in the Taxing Office, which, with your permission, I will hand in (*handing in the same*).

54,998. (*To Mr. Bannehr.*) The points which you wish to put before the Commission relate to the question of salary and the question of promotion?—Yes. The case that my colleagues have set up by their statement asks for three things: (1) for increase in salary; (2) for an increased speed of promotion; and (3), which includes the other two, is for restitution to the positions assigned to the clerks by the order made by the Lord Chancellor and Treasury in 1881. That order assigned to all the principal clerks in the Taxing Office the position of first class clerks, and to all the juniors in the Taxing Office the position of second class clerks. Their case is that they may be restored to that position.

54,999. We will deal with the question of promotion first. What are the points you wish to put before us on that subject?—Might I ask you to allow Mr. Porter to speak to that? He has prepared that part of the case.

55,000. (*To Mr. Porter.*) Will you speak on that point?—In connection with the slowness of promotion I have also prepared a short statistical statement which I thought might be useful (*handing in the same*).

55,001. Will you explain what you wish to put before us?—First of all, the point with regard to the staff of the Supreme Court Taxing Office, as distinct

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[Continued.]

from other legal departments, is this: With regard to the appointments of third class clerks the masters have for some years past insisted that the candidates or persons elected to the post of a third class clerk, or the position of junior clerk, shall either be a solicitor's clerk of some years' experience or a solicitor. You will see from the table I have handed in that the staff as at present constituted consists of men who have had on an average 10 years' experience in a solicitor's office; and there are also, I think, five solicitors. Compared with other departments that qualification of previous experience is not required. If it be not considered improper to compare ours with the other departments I will take the Central Office. I do so only for the purpose of comparison, and not for the purpose of making any invidious distinction. In the Central Office the men are appointed, on an average, younger in years than the third class men in the Taxing Office. The reason for this is, that if you insist upon a man coming in with some years of previous experience he must be at least 26 or 27 years of age, and I think the average appointment to the Taxing Office is of that age.

55,002. A man comes in at 26, because he thinks it worth while to do so?—A man comes in to the Taxing Office with previous experience with two or three objects. One reason is the pension; another reason is that the hours are shorter than he has been used to in a solicitor's office; and the third reason is his hopes of promotion, and also the holidays are longer than one gets outside. Speaking from experience, the holidays outside in a solicitor's office were three weeks, which on an average is pretty general.

55,003. What holidays do you get in the Taxing Office?—When one is not on vacation duty, in which case you get no holiday at all, you have the whole of the Long Vacation practically, and the greater part of the other vacations. During the other vacations the Taxing Office is open on the days when the other offices are open with half the staff.

55,004. Those collateral advantages must be taken into account in considering the suitability of any scale of salaries?—I would add that on the average without exception a solicitor's clerk, when he does in fact come in, gives up salary. Taking myself as an instance, in my own case I gave up, I think, between 40% and 50% a year.

55,005. Which you recovered in four or five years?—Yes*; but also one would imagine that if I had remained outside I should also have received an increase there.

55,006. The slowness of promotion is the point you wish to represent. What do you wish to say about that?—Our department as compared with other departments is managed by 11 masters, each master having two clerks. The present standard of the staff is 4 first, 8 second, and 12 third. The peculiarity of the position is also noticed, inasmuch as the senior clerks are in two different grades; some of them are firsts and some seconds, so that the chance of promotion of the third class clerks to first class clerks is far more remote than that in the case of Chancery chambers, where they have twice as many firsts as seconds and thirds; that is to say, second and third class clerks in Chancery chambers have a double chance of promotion, as compared with the departments where there are only an equal number of seniors and juniors, which is rendered harder by the fact that some of the seniors are second and some first.

55,007. Have you compared the numbers also with the Central Office? The proportions there are very different from those in Chancery chambers?—Yes. In the Central Office they have 11 first, 28 second, and 28 third. There they have the same number of thirds as seconds, whereas we have not even 12 seconds.

55,008. In comparing it with Chancery chambers, the comparison might tell in both directions. It may be that the proportions of the higher classes are too large in Chancery chambers?—I am only mentioning

the fact of its present constitution. Another point is this—I do not know whether I have explained myself clearly—that with regard to the number of the staff, the reason promotion is slower is the fact that there are not the three classes of work that exist in other departments; there are not the first, second, and third class clerks so far as the character of the work is concerned.

55,009. But there are as regards the scales of pay. You have the three classes of clerks?—But you have this position, that the senior clerks are made up of firsts and seconds, whereas in Chancery chambers the senior clerks are firsts, all of them. You have three grades of work there.

55,010. That is a question of the work, but so far as the scales of pay are concerned you have the three classes as in the other offices?—Quite so.

55,011. You are speaking of promotion not in relation to the work, but in relation to the scales of pay, I understand?—Yes.

55,012. As regards the scales of pay you have the three classes which they have in most of the other offices; but you represent that the proportion of the higher classes is smaller in your case than in the case of some of the other offices. Is that your point?—Yes, so far as it affects the question of promotion.

55,013. Now as to the actual rate of promotion, what is the length of service of the men at the top of the third class at present?—The highest man was appointed in 1900. He has been in the office 15 years.

55,014. The last promotion to the second class was of a man with 13 years' service?—Yes.

55,015. Have you compared that with some of the other offices?—Yes, I think if you take the Central Office, which is an office we are closely connected with, seeing that our work is both Chancery and Common Law, you will find that in the Central Office of the 28 thirds there is not one at his maximum. On the contrary, I think you will find that the senior third, from information I have just obtained from the office, is only getting 160% per annum, so that he has four years to go before he will have reached his maximum.

55,016. You mentioned the Chancery chambers. Have you compared the length of service of the clerks at the top of the third class in the Chancery chambers?—A little different position arises there before the question of comparison comes in. The Chancery chambers have at present in the third class a number of men who have applied to be transferred from the Chancery Registrars Department, which was, if I may call it so, a blind alley position. There is for the thirds in the Chancery Registrars Department no possible promotion, and many of them have applied to be and have been transferred to Chancery chambers as thirds. I think the first man not transferred from the Registrars Department in the list as it at present stands is a Mr. Cocks, who was appointed in 1901. Then you come to a Mr. Weston, appointed in 1903. Those men, I think, were appointed straightway from outside to a position in chambers. The other names—Mr. Bartholomew, and onwards—were of men transferred from the Chancery Registrars Department.

55,017. Those two gentlemen you mention have just about the same length of service as in the case of the last promotion to the second class in your office?—Yes.

55,018. Therefore the comparison appears not to be very unfavourable to you?—Except that the chances of promotion of those men to-day, excluding Mr. Cox—if you take the whole list of the 12 thirds—are better than in the case of the 12 thirds in the Taxing Office.

55,019. But as a matter of fact the men at the top of the class have about the same length of service?—There is that one I have mentioned.

55,020. Have you compared your department with the Probate Registry?—No, I confine myself to what we call the legal departments of the courts.

55,021. In the Probate Registry they have roughly the same classification as you?—Excepting that they have six principal clerks at 800% a year in addition to their five first class clerks at 600% which we have not at all.

* Yes, in the sense that I had in five years reached my original salary, but meanwhile I had lost in the first year 50%, in the second year 40%, and so on.—A. W. P.

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[Continued.]

55,022. What is the length of service of the men at the top of the third class in the Probate Registry?—The top man, in the list I have in my hand, entered the service 1st November 1894. I remember reading part of the evidence given, and I think it was said that 10 of those were old copying clerks, in whose case the question of promotion does not arise.

55,023. Yes, with certain of them the question of promotion does not arise; but looking down the list, taking the first 20 or so, they are all men with service dating back as far as 1902?—Yes, that includes the 10 I was referring to—the old copying clerks.

55,024. But it also includes men who are in the line of promotion?—Yes.

55,025. So that they are not much better off than you are as regards speed of promotion?—In the table I have prepared I have taken 15 years roughly as a fair test to cover people's maximum, and I worked that out, including the Probate Registry, though I have not those figures before me, but they have been checked.

55,026. It appears to come to this, that, as regards length of service, the man at the top of the third class in the Central Office is better off than you, but the other offices are not much better off?—We think chambers are better off, unless you treat the cases of men who have been transferred from the Chancery Registrars' Department as equivalent to having been appointed originally in that place where they now are.

55,027. Taking facts as they are now and leaving out the men transferred, the senior men in the third class not transferred have approximately the same service as the senior men in your third class?—I think, roughly, that is so.

55,028. As regards promotion from the second class, what is the length of service of the man at present at the top of the second class?—Twenty-five years. That is the length of the whole service. The senior second at present is Mr. Blake, who is here this morning, and his present service is 24 years, of which he has been over 15 years in the second class.

55,029. Do you wish to say something further on the point on which you have already touched, namely, the question of classification not corresponding with the work?—Mr. Bannehr will deal with that subject. (Mr. Bannehr.) I bring that in under the claim to restoration.

55,030. (To Mr. Porter.) Have you anything further to say on the question of the slowness of promotion?—I consider that inasmuch as the men in the Taxing Office are appointed with previous experience they get no reward for that experience, either in the shape of anything added to their service for the purpose of pension or otherwise, but, on the contrary, comparing it with the Central Office, they are really worse off than men without previous experience. That has been proved in several ways in the case of men who have applied to be transferred. We have four cases in mind of men who came into the Taxing Office, and after staying there a little while considered the chances of promotion so bad that they applied to be transferred. Those four men have all been promoted in other departments since they left the Taxing Office. One of them is an 800*l.* a year man; another is now acting as first class clerk in chambers; the third and the other have been second class clerks some time, and I can say that certainly if they had remained in the Taxing Office in the position in which they were appointed when they first entered the Service they would still be third class clerks. We feel that the taxing masters making the point that they will have men with previous experience, and seeing the class of work one has to deal with, where one is exercising discretion and dealing with items of allowances to solicitors in respect of work done, we often have, by the necessity of things, to fulfil the duties of the senior clerk.

55,031. Will you tell us a little more about that? What exactly is your work—I am speaking of you personally in the third class?—Seeing the questions which have been asked, I have prepared with regard to that a statement giving the normal work of the juniors in the Taxing Office, and giving an idea of what a day's work consists (*handing in the same.*)

55,032. In the statement which you have handed in you divide the work into clerical or general work in the first place, and more advanced work requiring special qualifications in the second place?—For the reason that I thought it would be obvious to anybody that there must be certain routine or clerical work in any department; but so far from our general work being routine or clerical, it is certainly, we contend, the opposite; and I think Master Baker when before you supported that contention.

55,033. Taking the clerical work. In the first place that consists of entering orders in the register, sending out notices, keeping the fee-books and indexing bills, putting them away, and generally doing the routine clerical work in connection with the bills that come in for taxation. Is that a fair description of it?—Yes, but not quite. There is one point, that every order that comes in has to be read to see the direction for taxation.

55,034. (Mr. Coward.) What order do you say has to be read? The order referring it to you?—Yes.

55,035. But then the order says it is referred to the taxing master to tax the costs?—Yes, but sometimes it is incomplete.

55,036. (Chairman.) Incomplete in what respect? Do you mean it is not signed, or something of that sort?—In the King's Bench cases very often the recital part of the order is not followed out in the operative part. In Chancery it does not arise, because the Chancery orders are settled by the registrars. In Chancery also a statement of the parties is lodged, and the interests of the parties have to be stated for the purpose of giving directions as to taxation. That is put in under the head of clerical and general work. I am not enlarging upon it but only mentioning it as a fact.

55,037. Each third class clerk is attached particularly to one taxing master?—Yes.

55,038. And he does the work you describe here with reference to the orders coming to that master?—Yes.

55,039. Those are about 600 cases in a year?—Yes.

55,040. Would that be an average of something like 2½ cases per working day?—I have not worked that out.

55,041. If there were 300 working days it would be two cases per working day. There are not 300 working days, because you have long holidays, and therefore I say it is something like 2½ cases?—Yes.

55,042. You mention also certain work of a more advanced kind requiring special qualifications. You say interviewing solicitors and clerks and advising on questions of law and practice. On what questions of law do you advise solicitors?—There may be a case come in with regard to an order where there are costs of the action and counter-claim, one party getting the costs of the action and another party getting the costs of the counter-claim. The person getting the costs of the counter-claim may want to know what sort of costs he should bring in under that heading. There are also questions arising on judgments in the King's Bench Division, especially where there are issues involved where a person is successful upon a particular issue, and has got the costs of that issue, and he wants to be told or to be advised as to the proper form which his bill should take. We are able, by reason of our experience and knowledge, to inform him of the cases upon the subject where the principles of law are settled upon that question. There are also in Chancery what are called one set cases, where the costs are taxed and the parties entitled to shares have encumbered their shares, and their mortgagees are before the Court also, and the Court orders taxation but only one set of costs. We are able to tell the solicitors very often the way that their bills should be brought in, so that only one set is before the master.

55,043. (Mr. Coward.) You are assuming that the solicitor knows very little about his work?—With respect, we find in our experience that solicitors come to us an enormous lot on the question of costs. It is surprising on the question of costs that although it is, perhaps, almost the back-bone of the profession, it is a question to which the solicitors in their own interests do not give that attention which one would expect.

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[Continued.]

55,044. (*Chairman.*) Then in the case of a solicitor who wants advice or information on those points, is it always a third class clerk with whom he deals?—No. I happen myself to be the joint editor of what is called by Master Baker the standard work on the subject of taxation of costs and which is recognised by the profession as a standard work upon the subject. I am also joint editor of the “A B C Guide to Costs.” They do not only come to me, but they come to other of my colleagues in the third class.

55,045. Is it ordinarily part of the work of a third class clerk, or of a senior clerk, to advise solicitors on points of this kind?—I cannot say as to the work being ordinary work. They go to whoever they think they will. If it is a case in our own office, naturally they would go to the clerks in that office.

55,046. There is not any regular routine as to which clerk should deal with solicitors who come for information on some point?—No.

55,047. You mention also appointments with solicitors to dispose of queries not dealt with by the master or senior clerk. What is the nature of those queries?—The nature of the queries is very varied. I will just give an illustration of a small point dealt with in the statement with regard to the considerations that have to be gone into on the question of the allowance of a copy. It may seem rather simple, off-hand, as to the allowance of a copy of a document, but I have given in the statement a few questions that would have to be considered in the allowance of a copy. Is it an old copy; was it expressly made for the purpose charged? That is governed by authority. Sometimes persons get the costs of an application only or the costs of an appeal, and they use upon that application or appeal the documents that were copied for a previous application or part of the action. There is authority which says the mere fact that copies are used on the subsequent application in which they get costs does not entitle them to the costs of them; and that is a question to be considered on that point. Another point is, whether it was a carbon copy; that arises on a typewritten document. We have a lot of cases where the documents are typed, and we have to see if they are top copies, and if they are not all what are called “tops” or first copies, but are carbons, they are allowed at half the charge for the top copy. Another point is with regard to printed documents. Sometimes a document which is printed is charged for, and we have to decide whether it is a document for which the charge should be 4*d.* or 2*d.* per folio, or no charge at all. Sometimes you will find in the bill of costs a charge for a print of a charter-party, which perhaps they get from the client. No profit can be allowed for this.

55,048. Then with regard to the preparation of certificates of taxation. What is an ordinary certificate of taxation? Is an ordinary certificate a simple document?—Yes, simple.

55,049. In what cases are they complicated?—To illustrate that I have brought two with me (*producing same.*)

55,050. Are the complicated cases those in which numerous parties are concerned?—Yes, what is called a partition action, and where there are incumbered shares.

55,051. Are complicated certificates drawn by the third class clerks?—The practice varies. Those before you were drawn by a third class clerk, and that is why I produce them.

55,052. After being drawn by him are they revised by the taxing master?—Not as a rule. Invariably the clerk has an appointment with the parties before him to settle the certificate.

55,053. I see this one you have produced is initialled by the master?—Yes.

55,054. It comes before the master to be initialled?—Not generally. That case I have put before you is a very exceptional one, seeing the length of it, but that was drawn by a third class clerk and approved by the master. Of course, there may be questions arising on it on which they might see the master. I do not mean that they would not want to go to him; very often they would, especially in a case which is a “one-set” case.

55,055. Then these are settled with the solicitors representing the parties?—Yes.

55,056. When they attend for the purpose of settling it, is it with a third class clerk that they settle it?—Yes, if he has drawn the certificate, as was done in that particular case.

55,057. If the parties raised any objection would that come before the master?—Yes. The senior clerk first, if the third class clerk had drawn the certificate. If the senior had drawn the certificate they would go to the master.

55,058. I see a further item “Disallowance of costs of taxation as a penalty in certain cases.” Is that a matter that a third class clerk decides?—Yes.

55,059. Disallowance as a penalty?—Yes. There are certain cases under which there are certain penalties. One is if the order is not lodged in time; another is where the costs are payable out of a fund or estate or assets of a company; and another is where the bill is being taxed under the Solicitors Act of 1843. Those are statutory penalties.

55,060. Those are cases where there is not any question of discretion, but they are decided by rule or statute?—By statute and rule.

55,061. I presume there are no questions of discretion where disallowances are made by a third class clerk?—No, not of these statutory penalties*. There are cases where the master may certify specially why the statutory penalty would not follow. Those would be for the master.

55,062. It is a case in which the third class clerk would apply rules; he would not exercise discretion?—That is so.

55,063. You say, also, that you sometimes have to take work home?—Yes.

55,064. Does that often occur?—Yes. I should say recently, the work having dropped down a little, it is not done so often, but I have brought with me a summary of casting. In the Chancery matters the question of casting is bigger than in the Common Law. In Common Law the bills are not so long as in Chancery. I have brought with me, to show what is involved in checking, the summary of a bill of costs, the pages of which were 3,400. It would be absolutely impossible to check that bill during office hours.

55,065. Are you speaking of the casting?—Yes; it would be absolutely impossible to check that bill properly in office hours.

55,066. Why?—There are continual interruptions. We have to see to the costs that are before the master, and see the people who are to go before the master. The office, like other public offices, is a place where people are continually coming in and going out, and asking about this, that, and the other. As to the advisability of this checking being done quietly, I have a case in my mind where I was checking a bill that was cast accurately till I came right to the end, where there was a mistake of 100*l.* too much on the bill. Possibly, had that been done in the office with many interruptions, there would have been a risk that that might not have been noticed. Some of the masters have expressed themselves so strongly that I know they applied to Sir Kenneth Muir Mackenzie that there should be a special staff for checking the bills, and that they should be uninterrupted by anybody, seeing that the person who has the checking of the bill has the last word with regard to the amount that is to go into the certificate. The initials of the junior clerk at the end are accepted as showing the proper figure to be certified to be paid out of court or a fund or estate or by the opposite parties. When the costs are payable by one party to another the question is not so acute, because the parties sometimes agree the figures.

55,067. That is to say, as to the accuracy of casting?—Yes, and as regards the amount to be paid.

55,068. (*Mr. Coward.*) But nobody comes into your office after 4 o'clock?—No.

* The negative answer to this question solely relates to the disallowance of costs of taxation, arising from Q. 55,058. The third class clerks are continually exercising a discretion by the allowance and disallowance of items and on occasions tax.—A. W. P.

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55,069. What would prevent you doing all this addition work, and everything else that had to be done, between 4 and 6 o'clock?—That is so done. That is just the point.

55,070. (Chairman.) You said you had to take work home?—Yes.

55,071. Why not do it in the office between 4 and 6 o'clock?—When I say, "We have to," that is done perfectly voluntarily.

55,072. (Mr. Coward.) After 4?—Yes.

55,073. That is what I am saying. That is what I am complaining about?—The official hours cease at 4. Solicitors do not expect to be given appointments after 4. The hours are fixed by the rule. 10 to 4 is not fixed by us.

55,074. (Chairman.) Your general representation is, that the work of the third class clerks is important?—Yes. There was another point I wanted to mention with regard to the third class, and that is the sitting master's clerk. That is the office in which every order is referred, and also the office where the short and urgent King's Bench taxations are dealt with by what is called a sitting master. That is a master allocated each week to take the short cases. They are taken in the mornings. That position was held prior to 1910 by a first class clerk, and it is now occupied by a third class clerk. The masters, as a fact, did pass a resolution that that position should be at least held by a second class clerk, but nothing has been done upon that resolution, and the work done by the clerk in the sitting master's office is most responsible work. In addition to the balloting and referring of the orders, he actually signs the certificates himself for all taxations done by the sitting master. Last year the amount certified was 30,000*l.* of costs, for which this clerk alone issues the allocators and has to go through all the bills before they go to the masters, and that, again, he does after 4 o'clock, to prepare the bills for the master for the next day's appointments. He also has to vouch and check all those bills before the allocators which he issues are signed.

55,075. Do you mean, by checking, the checking of the castings?—Yes, after taxation, and prepare, sign, and issue the allocator for the amount of the bill.

55,076. On the master's decision?—On the bill as dealt with by the master. The important point is that a third class clerk is in a position to certify costs which last year amounted to 30,000*l.* The staff feel that a position like that should be adequately rewarded. This clerk was a solicitor's clerk of 11 or 12 years' experience before entering the office, and he was transferred to the Sitting Master's Department as a third class clerk and has never been promoted.

55,077. Is there anything else you wish to say on the points you deal with?—There is another point I wanted to mention. Speaking as a married man with a family—apart from the war, to which I am not alluding—the really serious question has cropped up of the increased cost in one's living, and one has to fill a position in which one has to be above temptation and that sort of thing; and we feel, as men with previous experience and filling a position where previous experience is necessary, and as Master Baker spoke in very kind terms in reference to our ability, that we should be rewarded on a higher scale than that on which we are. In comparing ourselves with other departments we do not want it to be assumed that we are attacking them in any way, but merely referring to the work done by the staff, which any member of the profession or a managing clerk who has any experience in the Taxing Office would endorse.

55,078. (To Mr. Bannehr.) Do you propose to deal specially with the question of classification in relation to the nature of the work to be done?—If you please.

55,079. Will you explain what you wish to say on that?—I desire to claim for my colleagues that all the second class clerks should be straightway made firsts, and all the thirds should be straightway made seconds. In support of that claim I refer to the statement of the staff submitted to the Commission and the various inquiries made into the duties of the clerks in the Taxing Office set out in that statement, and particularly to the order of the Lord Chancellor and the Treasury of

November 1881. By that order the Treasury and the Lord Chancellor found a third class clerk in many departments, but they found none in the Taxing Office.

55,079A. (Chairman.) They did not find them quite as third class clerks, but very junior clerks, men fitted to receive a small salary?—They appointed those in other offices as third class clerks; but they found no such clerks in the Taxing Office, and classified no such clerk in the Taxing Office as a third class clerk. They classified all the clerks in the Taxing Office as first and second.

55,080. What was the salary of the junior clerks before they were made second class clerks?—They advanced the salary a little of both clerks. The junior clerks' maximum salary in 1881 was 350*l.*, and that was advanced by the classification to a maximum of 400*l.* The maximum salary of the senior clerk in the Taxing Office in 1881 before the inquiry was 500*l.*, and by that classification order the maximum salary became 600*l.* I should like to refer you to that order, and particularly to Clause 5 of it, which says: "Upon the occurrence of a vacancy in any of the clerkships specified in the said schedule the staff of the office or department in which the vacancy occurs may be readjusted, and the numbers of the clerks therein reduced or their duties altered accordingly in such manner as the Treasury, with the concurrence of the Lord Chancellor, may determine." Now I know of no order of the Treasury or of the Lord Chancellor since 1881 which has affected that classification in any way whatever.

55,081. Do you contend that the Treasury and the Lord Chancellor have not power to alter the numbers in the different classes?—Power is reserved to them to do it by a joint order, by that very classification order, but they have not done it.

55,082. Your point is a technical one, that the alteration has been made without a formal order to sanction it?—That is my first point, but not my only point.

55,083. But that point is purely technical, is it not? The Treasury and the Lord Chancellor have full power to alter the classification and numbers, but you suggest that they have done that without the formal order which you think necessary to carry it out. It has been done?—I do not know whether they have done it. I do not know how it has been done.

(Mr. Coward.) It does not say in Clause 5 that there shall be any further order. They may do it.

55,084. (Chairman.) "As the Treasury with the concurrence of the Lord Chancellor may determine"?—That may be so. I do not press this point beyond this, that that Treasury order was the culmination of several inquiries as to the status of the clerks in the Taxing Office, and I thought you would look upon it as evidence that the officials who had inquired into the matter down to 1881 considered that the clerks in the Taxing Office should respectively be first and second class clerks.

55,085. *Prima facie* is it not evidence of this, that a certain organisation being created for the legal offices with a first, second, and third class, the existing clerks in the Taxing Office, from the level of the salaries they were actually receiving, had to be fitted into the first and the second class if they were fitted in at all, and could not be fitted into the third class because the salaries of the junior clerks rose to a maximum considerably above the maximum of the third class. It appears to me *prima facie* to suggest that that was done in order to fit the existing clerks into the organisation that was proposed for the legal offices, and it hardly appears to me to determine the point of whether that particular classification and those particular numbers in each class were considered to be the right arrangement in permanence?—There had been inquiries before the issue of this joint order of the Treasury and the Lord Chancellor, and the result of those inquiries was that the second class clerks were held to be entitled to a maximum salary of 350*l.* I submit this is *prima facie* evidence, that in 1881 the Lord Chancellor and the Treasury considered that the clerks in the Taxing Office should either be firsts or seconds.

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55,086. Even if that were so, and even if the Lord Chancellor and the Treasury have altered their opinion since, is it not within their power to do so?—I suppose it is, but I submit that it is unusual for a joint alteration of opinion to take place like that without any evidence of it. It has not been done in other departments. The classification which was set up by this order in Chancery chambers remains the same to-day as then. I would refer a little further to Clause 5, which refers to altered duties. I suggest that any alteration by the Treasury and the Lord Chancellor, whether made with or without an order, could only be made in the spirit of Clause 5 if the duties were altered.

55,087. Mr. Porter mentioned the case of the clerk to the sitting master, and said that those duties which were formerly classified as second class duties are now assigned to a third class clerk. Is not that an alteration?—(Mr. Porter.) That is not quite the position.

55,088. I thought you said those duties were formerly performed by the second class and are now assigned to the third class?—When that office was created in 1902, a first class clerk was transferred to the sitting master. He retired in 1910. It was always understood, I should say, that the Treasury considered that when he went the position should be held by a second class clerk, and in fact a second class was appointed.

55,089. That would be an alteration of the duties of each class within the conditions contemplated by this order?—The duties were not altered.

55,090. The duties of each class were altered. The duties which were formerly performed by a member of the first class were in future to be performed by a member of the second class. That is an alteration of duty?—The class was altered, but the duties remained exactly the same.

55,091. But the duties of a member of the second class were altered, because certain duties which were before performed by a member of the first class were given to a member of the second class?—Yes, but that was a new second class. (Mr. Bannehr.) The same duties were performed. The duties of the sitting master's clerk were not altered in any way. The third class clerk as sitting master's clerk to-day is doing exactly the same duties.

55,092. The phrase is "their duties altered"—that is the duties of the clerks. The duties of certain clerks were altered, if I understand you rightly?—No, the sitting master's clerk's duties have been the same since 1902, when the post was created, until to-day. The duties have not varied in any way at all.

55,093. No, but the duties of a second class clerk have been altered because a second class clerk performs duties now which he did not perform before?—(Mr. Porter.) The person appointed as second class clerk was promoted at that time. When the first class clerk retired a third was promoted to second to fill that place.

55,094. The point is that certain duties were transferred from the first to the second class, and you maintain that that is not within the phrase, "their duties altered"; is that your point?—(Mr. Bannehr.) I contend that the meaning of Clause 5 is, that the status of a clerk may be increased if his duties are increased, and the status of that clerk may be diminished if his duties are diminished, but that it is not within the spirit of that order to reduce his status if his duties remain the same.

55,095. I understand your point. Will you continue?—Of course, I understand that all this is within your purview, and you may agree or disagree with that order, and, therefore, I should like to show that the duties of the clerks in the Taxing Office have not been decreased in any way since 1881 but have been increased.

55,096. I do not think you need enlarge upon that point. I do not think that is material. The point which I understand you wish to bring before us is with reference especially to the senior clerks and the fact that the senior clerks are, while doing the same work, some first and some second class clerks. Will you explain your views on that point?—My view is that clerks who are doing the same work should receive the same pay. The principal clerk to some

masters is a first class clerk, and the principal clerk to some masters is a second class clerk. They are all principal clerks. Their classification does not alter their duties or their work; it only varies their pay and pension. I submit that all the principal clerks should be first class clerks.

55,097. As regards the junior clerks, you suggest they should all be second class clerks?—That is my suggestion.

55,098. You suggest that there should be no third class clerks in the office at all?—Yes, I do not think it is an office suitable for third class clerks, unless the duties are varied in some way or other, but they never have been varied.

55,099. You or Mr. Porter told us that one reason why you hold that view is, that the men who are appointed to the Taxing Office have had legal experience before entering that office more than they have had in any of the other offices. That is a point which we have before us. Is there anything in the nature of the work which discriminates your office so completely from the other legal offices that you think you ought to have an entirely different organisation without any third class?—As the office is constituted I can only put it in this way: that the work of the junior clerks is important work; it has been held to be important work on many occasions; and the work generally is interwoven. I do not say that the Taxing Office could not be re-modelled altogether on different lines.

55,100. (Mr. Coward.) How?—I do not propose it. I hardly know. Certain work could be assigned to the principal clerks, certain work could be assigned to second class clerks, and certain work could be assigned to third class clerks, who then, I take it, would be doing clerical work only; but it is not for me exactly to say how the office should be organised. I do not propose it. I only say it could be re-modelled.

55,101. Would it result in a reduction of the personnel of the staff?—I do not think so. The work I consider is interwoven very considerably. Each official is helping the official above him. My suggestion respectfully is that the juniors should be second, and the seniors should be first class clerks.

55,102. (Chairman.) Is there anything further you wish to add on that point?—Upon that point I do not know that there is.

55,103. There is one point which I see mentioned several times in your statement which you submitted. You say that because the office is a small one, therefore promotion is slow. Is there any reason why, if the proportions of the classes were the same, promotion in a small office should be slower than in a large office?—I do not think there is any point in that.

55,104. Is there anything you wish to add?—There is one other point I should like to mention, if I may. I would refer to the enormous gap spoken of by Sir Kenneth Muir Mackenzie, between the senior clerks at 600*l.* a year and the masters at 1,500*l.* a year. I would respectfully suggest that something might very well be done in the way of delegation of certain taxations to the clerks, which I think could be made to the benefit of the public service; certainly it could be made to the benefit of the senior clerks. In making the suggestion, I would refer to the case of Mr. Corley. That goes back some years, to the time when Taxing Master Bloxam was a taxing master.

55,105. Who was Mr. Corley?—Mr. Bloxam's senior clerk. During the last few years of Taxing Master Bloxam's régime, his work was restricted mainly to lunacy taxations. Until then lunacy taxations had been sprinkled abroad among all the eight taxing masters, but by some arrangement between the masters for some few years before Taxing Master Bloxam retired he did them all. Then upon his retirement a chief clerk in the Lunacy Office, a Mr. Stewart, was appointed by the then Lord Chancellor to be taxing officer in Lunacy in Taxing Master Bloxam's stead. Mr. Stewart knew no more about the inside of a bill than he did of the outside, and he did not attempt to tax; he was taxing officer in name only. Mr. Corley, the principal clerk to Taxing Master Bloxam, taxed under Mr. Stewart, the nominal taxing officer. Mr. Stewart, I believe, only lived three months, and then Mr. Corley was

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appointed taxing officer in Lunacy, and he has been taxing officer ever since, at a salary of 700*l.* a year. That, I think, is an instance of how taxations might be delegated, or some of them, from the masters to the more experienced members of the staff. In support of that I would further say that there has always been a certain amount of taxation entrusted by the masters to their principal clerks. It depends upon the individuality of the masters. Some masters—one or two in my experience—have insisted on reading every item in every bill that they tax. Master Skirrow did, Master Ryland did, but it is quite within their own power. The masters were appointed with a clerk to assist them in their business originally. Those are the words of the Act appointing the taxing masters.

55,106. Your suggestion is that certain classes of taxation, I suppose of a simpler kind, might be delegated by the masters to a class of clerks who in consideration of that addition to their work should be given a scale of pay somewhat better than the scale of pay of the existing first class?—Yes, that is my suggestion.

55,107. Do you think it would be possible to draw a clear line between taxations which could be delegated in that way and taxations which must be done by the master himself?—I think so. To be a little more particular Mr. Scott, one of the editors of the principal book on costs, taxed a very large number of bills under Master Davidson for 16 or 17 years. I have taxed a great many bills under Master Shearme, and so has Mr. Box under Master Spofforth. Mr. Blake will speak for himself. Mr. Brett also has taxed, I don't know to what extent, under Master Holme. I think all those masters are perfectly justified in asking the assistance of their clerks to tax. If I were a taxing master I should consider it almost the life of a dog to be expected to be responsible for every item in all the bills that might come before me. This being done, I think, or at least I suggest, is a reason why certain work could or should be delegated, and I think it could be done to the benefit of the public service as I said, and certainly to our benefit. I would mention, for instance, two cases. In 1895 I taxed the cordite case *Nobel v. Anderson*. Of course, it was subject to appeal to my master, and the parties could go to him on any question they liked. The costs as brought in came to 17,000*l.*, and as certified they were 5,400*l.* odd. That was largely due to a question of principle. The parties did go to my master and said I was wrong. They did not complain of my details at all, but complained that the principle on which I taxed was wrong. The master supported me and they brought in objections, and I know that those objections were settled by counsel, but they did not proceed with those objections; they were content in the end with that taxation by me.

55,108. I think we need not go into cases. The Commission understand your suggestion. (To Mr. Blake.) Have you any point you wish to add to what has already been given in evidence?—No, except that my colleague has not said what I think I can say, that it is very much more difficult for a clerk to tax a bill of costs than it is for a master. The master is clothed with authority to tax the bill, and the clerk is sitting in the next room and people come before him and they have only to open the master's door and go before him. Therefore, it is much more difficult for the clerk.

55,109. The master carries more weight with the parties?—Undoubtedly. I am Master Baker's senior clerk and I do a great deal of taxation for Master Baker in the course of a year, and satisfy the solicitors.

55,110. The present arrangement is that the clerks are divided up between the masters; each master has a senior clerk and a junior clerk, and they are exclusively employed on work arising out of the bills which are assigned to that master?—Yes.

55,111. Is that system necessary, and is it desirable—I mean, is it preferable to a system under which the clerks would not be assigned to particular masters, but would do particular kinds of work. You will understand that a system of that kind where there is not the attachment of particular clerks to particular masters would give much greater flexibility as regards the classification of the clerks and the adaptation of the work they do to the particular scale of salary which they

enjoy. What is your opinion on that point?—As the work is at present, I think the principal clerk should be attached to the master, because all sorts of things arise that the master wants to consult the clerk on, he has only to go into the next room to do it. He comes in and asks questions, or sends for me to ask questions, and if we were all over the place the work would be too much distributed.

55,112. It would mean, if the work was distributed, that the master would, instead of sending always for the same clerk, send for the clerk who was dealing with the particular case?—Yes.

55,113. Would any great inconvenience be caused by that difference of system?—No, I do not think so.

55,114. (To Mr. Porter.) What do you say?—I see no difficulty in that respect. In fact, having regard to the point you, sir, have mentioned, and which was mentioned by Mr. Bannehr, of the taxations done by the staff, taking six months, I know in one office half the taxations have been completely done by the senior clerk. Of course, the parties have the right to go to a master; that is quite understood; but as a fact they have not wanted to do that.

55,115. (Mr. Coward.) You say about half the cases?—Yes, half the cases have been done entirely by the senior clerk. Apropos of your observation about reorganising and having the clerks not attached to a master, I should have thought there would have been a great deal of saving, for this reason, that if you have, as you suggest, the staff as a body, and it is the recognised thing that the cases are dealt with in a certain way, the senior clerks taking such and such cases and the second class clerks the smaller cases with the right to all parties to appeal to a tribunal of masters, that, I think, would be a great saving. Perhaps it is hardly for me to suggest it, but as the observation fell from you it occurred to me that there would be a deal of saving.

55,116. (Chairman.) You think an organisation of that kind would work satisfactorily?—The proof of that is given in the case I have illustrated where a senior clerk has done about half the cases for six months with satisfaction to the profession; and if that is done as it were without official recognition, I see no difficulty arising by official recognition of the delegation of such duties.

55,117. (To Mr. Bannehr.) Do you agree?—I think I do. It is rather a difficult question to answer when one really has not considered how it could be worked, but I can conceive that such a system could be adopted with advantage. At the present time the normal duties of a principal clerk are to know all that a master knows practically, and in some cases a little more, because the master does not trouble about the minor scale fees and so on, but the principal clerk has to.

55,118. (Mr. Coward.) Is not the master's duty really confined to such questions as instructions for brief, whether or not two or three counsel shall be allowed for, and whether certain documents were properly copied and delivered to counsel? Is not that the kind of thing the master would deal with?—The masters have different methods. I have pointed out that there are masters who in the past insisted upon reading every bill and every item.

55,119. Are they there now?—No.

55,120. Then we need not deal with them?—No. If I may refer to Master Holme, I do not know except by hearsay, but I understand that his principal clerk reads the bill if it is a King's Bench bill, but does not leave more upon it than you, sir, say, that is instructions for brief, the materiality of certain documents with the brief, which sometimes is a very troublesome question, and the question of the amount of fees to witnesses; but when he reads a bill of costs which are payable out of a trust fund, or an estate, or a fund in court, his principal clerk will exercise a discretion upon all the letters and attendances throughout the bill, and he will reserve the major questions, such as journeys and other things, which I can hardly describe, which become questions of principle, to the master. My master, who is the son of the Master Bloxam whom I mentioned some little time back, and the only Master Bloxam to-day, leans on me, and unless the parties

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quarrel with what I have done—of course, sometimes they do—he looks upon my taxation of letters and attendances as final; but I understand that Master Holme thinks it his duty to re-read that which his principal clerk has already read.

55,121. (*Chairman.*) In fact there are considerable differences between the practices of the different masters?—Yes. (*Mr. Blake.*) I may say that in seven cases out of ten that I take for Master Baker I satisfy the solicitors and they do not wish to see the master at all. (*Mr. Porter.*) With regard to the items mentioned, “Instructions for brief,” counsel’s fees and witnesses—

55,122. (*Mr. Coward.*) And documents, I said?—Take the illustration of commercial cases. In the office where I am we do the whole of the commercial cases. I go through these bills before they go to the master. The parties very often see the bills before the appointment, and I have known cases where they have gone

into the master and actually done what you have just suggested and said, “We are only before you on ‘instructions for brief’ and witnesses.” That just illustrates the observation made, and, as a fact, it has happened in many commercial cases.

55,123. (*Sir John Kempe.*) All the masters do practically the same class of work?—Yes, the taxations are distributed over 11 masters. They are balloted for.

55,124. Therefore the system Mr. Bannehr thought might be possible—of having the duties divided into first, second, and third class—could not be carried out without having three classes to each master, unless the Chairman’s suggestion for “pooling” was carried out?—Unless there was a sort of tribunal of appeal of the masters.

55,125. Now, there is no reason for having a first class clerk under one master and a second under another master?—No, they are doing the same responsible work in each case.

Sir PHILIP GREGORY, called and examined.

55,126. (*Chairman.*) You appear on behalf of the Bar Council?—Yes, as representing the views of the Bar on the subject of the Land Registry.

55,127. You are yourself a barrister?—Yes.

55,128. In which direction does your practice lie?—In conveyancing. For the last 17 years it has been exclusively conveyancing. I may mention, as you ask the question, that I am one of the Conveyancing Counsel to the Court.

55,129. You have had some experience of the work of the Land Registry?—I have had a fair amount of experience of it professionally, probably as much as, if not more than, anybody else; but, of course, as a Commissioner on the Royal Commission of the Land Transfer Acts I had an opportunity of inquiring very carefully into the system. I may also mention that I am the representative of the Bar on the Rule Committee under the Land Transfer Acts, being one of those who advise and assist the Lord Chancellor in making the rules. I have been on that for a good many years.

55,130. The most important work of the Land Registry refers to the registration of title?—Yes.

55,131. Would it be correct to say that ultimately, if that system of registration extends, the whole of the registration of titles of the country will be centred in the Land Registry?—Yes, it will be centred in the Land Registry with district registries to assist. That is contemplated, if I remember rightly, by the Land Transfer Act, 1875.

55,132. Such district registries would, I suppose, be under the general control and supervision of the Central Registry?—Exactly.*

55,133. Will you give us your views as to the qualifications which are necessary for the registrar himself?—The work of the registrar requires: (1) A first-rate knowledge and experience of the complicated system of English Real Property Law, not only for the purpose of conducting the business relating to land when registered, but more particularly for the purpose of dealing with the grant or refusal of absolute title; (2) Skill in dealing with questions of construction, constantly arising on numerous Acts and rules (at present very complicated) under which the office works; (3) Skill in drafting new rules and forms as exigencies require. These are qualifications which are acquired to a greater extent in and by the training and experience of a barrister, than in and by that of a solicitor; and a registrar without the requisite technical knowledge and skill would be unequal to the duties of his office, however great his knowledge of, and capacity for, conducting the business of a solicitor’s office. The registrar should be a lawyer whose opinion on, say, the intricacies of real property settlements, or of the Settled Land Acts, would have weight in the profession. A registrar who has had sufficient experience at the Bar does not require to resort to external advice from counsel, unless the matters involved would occupy more of his time than so highly placed an official can give to

their consideration, and in the rare cases where he does so resort, he ought to be fully competent to criticise the opinion of the counsel consulted. The registrar has not only administrative duties, but also certain judicial functions in relation to awards of compensation to persons suffering loss by reason of operations on the register of title which are incapable of rectification. Also the system throws on him numerous duties which are quasi-judicial. Consequently, the registrar should have had some sufficient training at the Bar to fit him for the discharge of these functions and duties. It is therefore submitted that the qualification of 10 years’ standing at the Bar should not be reduced.

55,134. Your conclusion is that it is necessary to maintain the qualification of 10 years’ standing at the Bar for the registrar himself?—Certainly.

55,135. The appointment rests with the Lord Chancellor?—It does.

55,136. Is it your opinion that that should continue to be the method of appointment?—Yes. I certainly hope that nothing will be done to take that away from the Lord Chancellor.

55,137. The suggestion has been made to the Commission by several witnesses that in all legal appointments the Lord Chancellor, if he is the appointing authority, should be assisted by a committee which would report upon the qualifications of the candidates, and that the Lord Chancellor should make the appointment after considering their report. What is your opinion as to that suggestion?—I can see no objection to the Lord Chancellor having any advice or assistance that may be given him; but I should hope that the appointment would really be in his hands, for this reason in particular, that of course he is the person who, as matters stand, is responsible for the administration of the registry, or rather it is not expressly placed under the administrative control of the Lord Chancellor, but it is in practice subject to his supervision. Certainly I think the Bar have complete confidence in the Lord Chancellor making these appointments in a perfectly proper manner. As regards advice and assistance, what you suggest seems to me to be analogous to what we have under the Land Transfer Acts with regard to the making of rules. There the Lord Chancellor makes the rules with the advice and assistance—using the exact words, I think, of the Act—of a committee which is appointed in various ways. There is a judge and a representative of the Bar, a representative of the solicitors, the registrar, and a representative of the Board of Agriculture. But we do not make the rules; the Lord Chancellor makes the rules. It is his responsibility in the end, and he is not bound to follow the advice or assistance that is given to him; so what you suggest is very analogous.

55,138. The suggestion would apply, not only to the appointment of the registrar himself, but to the appointment of all his staff. The Lord Chancellor is the appointing authority for them also, and it is obvious that, for appointments of that kind, a man who is as busy as the Lord Chancellor cannot give personal attention to

* See Sec. 121 of the Land Transfer Act, 1875.—P. G.

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the detail of the matter. It is suggested, therefore, that a committee to scrutinise the qualifications of applicants might be of great use in obtaining the best appointments to all those posts throughout the office?—Yes. I do not know how the Lord Chancellor dispenses his patronage at present; but the observation I should like to make on that is, that I do hope that the appointments of the registrar and assistant registrars will be retained entirely in the hands of the Lord Chancellor, so that he will give the personal attention to the appointments which he probably has done up to the present time. That is the more important with regard to the assistant registrars, because if the system is extended there will have to be a very much increased number of assistant registrars, and the district registrars will probably be on the same footing as the assistant registrars.* It would be not only the head man, but those of the next important grade, which I certainly hope would be retained exclusively in the Lord Chancellor's hands as regards appointment.

55,139. Are any professional qualifications required in the case of assistant registrars?—They must be barristers, solicitors, or certificated conveyancers of not less than five years' standing. The certificated conveyancer hardly exists now, if he exists at all. All the conveyancing business not done by solicitors is done by barristers.

55,140. You would maintain that qualification as it stands?—Certainly.

55,141. Do you suggest that it would be advantageous to have one solicitor among the assistant registrars?—That, I think, is probably advantageous. Of course, I speak without a knowledge of the inner working of the office, but from what I know of the business I think it would be to the advantage of the office for consultative purposes that in this grade there should be an official having the training of a solicitor. I feel sure that there must be occasions on which it must be very desirable for the registrar, who was only trained as a barrister, to refer to someone who has a knowledge of how a solicitor's business is concerned. We all, in our conveyancing business, are indebted to our professional clients for a great deal of help in the actual working of conveyancing business. We do the technical part, and they do the business part; some of them, indeed, are good at the technical part. At all events, I should think the registrar would be very glad to have a solicitor to refer to on occasions.

55,142. For the rest of the clerical staff, do you consider that professional qualifications are necessary or desirable?—They are not necessary now, but many of the clerks, I understand, have the professional qualifications; that is to say, some of them are barristers; but I am not sure if there is any solicitor amongst them. It has been clearly recognised that, for the working of the office, it is desirable to have some professional qualifications for some of the clerks.

55,143. It was represented to us by some of the first class clerks in the Land Registry that their work was really the work of an assistant registrar, and they claimed that their position ought to be improved, both in title and as regards salary, in order to correspond to that fact. I do not know whether you are sufficiently acquainted with the arrangements of the office to express an opinion on that claim?—No. I cannot express any useful independent opinion upon it. I have an idea that that has found favour with some people, but I know nothing about it, really.

55,144. They told us that in many cases the decision on registrations of absolute title rested with the first class clerks, and they claimed that that was work which might be expected of an assistant registrar but not of a first class clerk?—Exactly. If they have to decide about absolute title, then, from every point of view, they ought to have sufficient legal qualification, because that is just where the qualification is useful, both with regard

to the public who are dealing with the registry, and with regard to the question of the Indemnity Fund. It seems to me that the man who has to decide upon whether an absolute title should be granted or not, ought to have the qualification of an assistant registrar, and if he is doing the work of an assistant registrar it seems only fair that he should be given some rank and pay that corresponds to it.

55,145. It was also suggested by some of the witnesses that the work done by the clerical staff can be divided into two parts—work of a more or less routine clerical nature, which is done by the clerks in the junior classes, and work of a really professional character, dealing with examination of title or absolute title, which is done by the higher classes—and they suggested that there should be two grades, the lower grade recruited separately for the clerical work, and the higher grade recruited separately from men with professional qualifications. Are you prepared to express an opinion on that suggestion?—Of course, I am an outsider in the matter of the working either of an office or a Government department, but I should imagine that that was a very sound way of looking at it.

55,146. Have you formed an opinion, from your experience of the office, as to the manner in which the work is performed by the clerical staff generally?—I have had nothing before me, either at the Commission or in my practice, to make me say that it is not done well. As far as I have to do with it, I think the work is quite well done. I do not know whether you are speaking of the work of the registrar and the assistant registrars. I cannot speak too highly of that, if I may venture to say so.

55,147. If the work of the staff generally had been defective in any way, that, no doubt, would have come before you at the Commission on the Land Transfer Acts?—I think it certainly would. Of course, there were questions raised as to whether certain things ought or ought not to have been done—particular cases which involved complaints of the system more than anything else—but I do not remember any complaint about the inefficiency of an official.

55,148. (*Mr. Coward.*) Probably you would not have had any complaint. I was trying to think how you could have a complaint?—I think it must be so. We could not have had a complaint. Inquiry was directed into the system, but, of course, in order to make good their objections to the system, those who were against it had to show where the system had failed.

55,149. It would have been very gross neglect, if there had been any neglect, that could have been brought before you?—Yes. There were certain cases of failure to note certain things on the register, but they did not come to much, in my recollection. I have not studied the evidence again with a view to this inquiry, but that is the impression left on my mind.

55,150. (*Chairman.*) The general impression on your mind is that the work is well done?—Yes.

55,151. Then, speaking generally, you do not suggest any modifications in the present arrangements of the office or its organisation?—No, certainly not. All I hope is, as I said, that we shall have things maintained as regards the appointments and the qualifications as they are now.

55,152. (*Mr. Boutwood.*) In speaking of the qualifications required for the registrar, you said these qualifications are better acquired by a barrister than by a solicitor. Would you mind enlightening my ignorance by developing that a little?—The solicitor's business, as a rule, does not take him into the mysteries of real property law anything like so deeply as a conveyancing expert goes into it. It is the difference between the general practitioner and the specialist. The amount of skill and learning required by the conveyancing barrister in his own department is generally greater than that of a solicitor; otherwise our branch of the Bar would hardly be required. Perhaps you do not understand that the conveyancing branch of the Bar are pure specialists who, as a rule, do not go into court; some do, but there are a certain number who do not go into court. The work of conveyancing is done by the Chancery Bar, who have given themselves to this particular branch, sometimes in conjunction with court

* The qualification of a district registrar is being a barrister or solicitor or certificated conveyancer of not less than 10 years' standing; and an assistant district registrar must be a barrister, solicitor, or certificated conveyancer of not less than 5 years' standing. (Sec. 119 of the Land Transfer Act, 1875.)—P. G.

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work, sometimes without; but it is all studied and carried out as an expert branch. We have no privilege as in court; a conveyancer has no privilege in doing any particular work, and he is only appealed to because the solicitors require the advice of an expert.

55,153. (*Mr. Coward.*) You suggest that the qualification should be allowed to remain?—Yes.

55,154. Without alteration?—Without alteration.

55,155. So that the solicitor would still be available for appointment if he were a proper man?—As assistant registrar, yes.

55,156. The fact is, as you said just now, that the men of the Conveyancing Bar devote themselves exclusively to that work?—Yes; but you must remember that as conveyancing business has contracted during the last few years, for reasons that you are as well acquainted with as I am, the number of men who are pure conveyancers, and therefore exclusively practising as conveyancers without going into court, is getting a great deal less than it was some years ago. Therefore, I do not wish it to be understood that the conveyancing expert is a person who never goes into court, because some of the ablest real property lawyers of the day have gone into court, and one in particular still goes into court. A judge, who recently was appointed, was probably one of the ablest real property lawyers of the day, and his business was chiefly in court. Vice-Chancellor Hall, you will remember, went into court even when he was conveyancing counsel to the Court. But it is a special expert branch of the law.

55,157. The only thing I should like to say upon that qualification of five years' experience at the Bar is, that the probability is that a barrister of five years' experience would not have half the experience that a solicitor in a good office would have after he had served his articles, would he?—I should not like to say that.

55,158. Not as a rule. He might devil for somebody, and then, of course, he would have experience; but five years, if he were doing his own work, would be very little or nothing?—I agree as to his own work; but, of course, the devilling for the other man, and the continuing on as pupil, which is what generally happens, gives the man experience.

55,159. He would continue on as devil, paid or unpaid?—Yes; and all the time he is acquiring the habit of mind with which the conveyancing counsel approaches matters, and he gets more and more familiar with abstruse matters like the Settled Land Acts, settlements, &c.

55,160. I think you will agree that there are men in my branch of the profession who are very skilful conveyancers?—Quite true. I have come across, to my great satisfaction, many in my time, but they are rather rare, and I generally find that they have read in the chambers of a conveyancing counsel.

55,161. (*Sir John Kempe.*) You say in your précis that, besides the Land Registry, "The only other business connected with land is conducted by the Board of Agriculture and Fisheries." When Sir Charles Fortescue-Brickdale was here, he said he thought that there was a good deal of overlapping by several departments; he thought the Valuation Department of the Inland Revenue overlapped, and also the Board of Agriculture. Do you know the Valuation Department of the Inland Revenue?—That is a new department, and I have not had any experience of that. It does not come into the conveyancing part of it. Perhaps I ought to have said, "the only other business connected with the conveyancing of land."

55,162. Then you could not speak as to the possibility he suggested of these different departments being some day more or less co-ordinated. Would it be possible for the Land Registry to undertake any valuation until the whole of the land had been surveyed and registered all over the kingdom, because it would be a serious thing for taxation purposes to have only bits of the country surveyed and registered?—I do not know what the Valuation Department are doing about that. It would require the combination of the Valuation Department, as it stands and as it works, with the Land Registry as it works. I apprehend that what was suggested was that the two departments should be worked together.

55,163. Yes, more or less in connection?—There is a great advantage in that, probably, but I have not carefully thought over the point. I am aware that in Italy they are able to have what appeared to me to be a very excellent registration system, because they combine the fiscal side of it with the legal side, and that enables the expense of the registration to be partly taken over by the State. When I investigated all that—which I had the advantage of doing some few years ago—it struck me that there might be advantages in saving the landowners the great expense of the whole registration system, if in some way it were thought worth while that the State should take it over, as they would get a benefit from the system for taxation. But I am not sufficient of an expert in Government departments to be able to suggest how that would really work, or whether the Land Registry would not be entirely overdone if they had to take over another department. I am only a theorist on that.

55,164. In fact, the whole system of land registry would have to be made compulsory all over the kingdom. It could only be worked in that way?—That would make it complete, but I do not know why it is necessary that there should be registration before you have valuation, because they are doing that now.

55,165. But there might be only one set of surveys instead of two sets of people doing the survey. That was Sir Charles Fortescue-Brickdale's idea?—That you must register the whole land of the country first before you tacked on another department.

55,166. The only use of the Land Registry to land valuation would be that it keeps a complete register of the whole of the land which could be referred to by the Land Valuation Department?—That would be in considering whether it would be an advantage to the State generally to tack it on.

55,167. (*Chairman.*) Is not the point this: There is a distinction between the registration and cataloguing of land and the registration of title. You might have a department which was charged with the mapping and registering of the actual facts as regards the land without making it compulsory that the owners of that land should register their title?—Exactly.

55,168. If you had a system of that kind it would serve as the framework for such registration of title as might be effected, and also serve as the framework for valuation for fiscal purposes?—Exactly.

55,169. Therefore you could combine the two without necessarily making registration compulsory?—Precisely. In that way you would have the country mapped out, so that as regards certain portions of it the map should indicate the ownership so as to be binding, and as regards the rest it should not do so.

55,170. (*Sir John Kempe.*) It is merely making a map of the whole country, dividing it up into holdings without registration necessarily?—But when you come to valuation you have to take the extent of holdings, and that leads you to the ownership.

55,171. It is rather a complicated system, and therefore you could not combine it?—No, I do not recommend that. I only point out the advantages which occurred to me when I was looking into it in Italy. If the two systems could be combined, then the great bugbear of registration of title, that is to say, the expense, would be very materially reduced to the landowner.

55,172. As to recruiting the technical part of the office, you would not consider, I suppose, open competition for that purpose?—No, I should deprecate that very much indeed. I am more of a believer in legal examinations than are a good many of my friends, but I should be sorry to have them treated as a guide or a test for these appointments.

55,173. In the Patent Office there is open competition, and the knowledge required there is very technical, and that office has been very successful?—I do not know anything about that.

55,174. The work there is highly technical, though no doubt it does not require so much legal knowledge?—Yes; but with regard to dealing with conveyancing, the man who is really good must know his law extremely well, but that is not enough; he has also got to learn how to apply it. I have known many men who are profound lawyers who have not risen to what might

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otherwise be their proper place in the profession, because they have not got, as far as one can see, the power of applying their great knowledge. Several people I know without great knowledge, but by a happy faculty of being able to apply what they do know, they have attained good positions in the profession. Therefore it would not be merely enough for a candidate to pass the examination well or better than another, unless you had some means of finding out that the first man in the examination was also the most practical.

55,175. (*Chairman.*) With reference to the question of the qualifications for the different posts, at present the staff of the office generally, apart from the registrar and assistant registrars, are recruited without necessarily having any professional qualification. Some of them have it and some have not. Their work after they enter the office is largely concerned with questions of title, and as they move up the office, increasingly so concerned. Would it not be the case that, after a man has been 20 or 30 years in the office, if he is a capable man, he would have become an expert in questions of title?—A man who was not a barrister or solicitor?

55,176. A man who might be a barrister or solicitor, but who had not had any long experience as barrister or solicitor before entering the office?—Yes, of course he would become very experienced in the particular kinds of work that had come before him, but he would never have attempted to draft any deed, or any will, or any difficult agreement, and there are a good many other things which I might enumerate, with which he would never have to do, which would make a great deal of difference in the development of the conveyancing lawyer. Exactly as a mathematician, if he reads his books, acquires a certain kind of knowledge, but it is the problem, or the rider as we call it at Cambridge, which ultimately develops the good mathematician. I think it may be said as regards our work that it is the work of drafting which brings out all the problems which ultimately develop a man most. A clerk in the office would never have to do that. His drafting would be confined to the forms, and so on, that are used in the office, and he would not have to draw difficult deeds but would only be a critic of them. I think he would not become so good as a man who has had outside experience.

55,177. But his work for many years would have been the examination of such deeds and the drawing of proper inferences from them?—Yes.

55,178. Leaving aside for a moment the office of registrar and taking two men who are in the grade below that of assistant registrar, let us suppose that one of them entered the office with five years' experience at the Bar, and that the other entered the office without experience at the Bar, and that both of them have been 20 or 30 years in the office. Could you say that the former would have such an advantage over the latter that he ought to be eligible for the post of assistant registrar and the other not? My point is, whether the 20 or 30 years' experience in the office in scrutinising titles would not be far more important as a qualification for appointment to the post of assistant registrar than the five years' experience which he had had at the Bar before entering the office?—I think there may be exceptions. There may be men who, without the legal training at all, may become qualified in the way you have described; but the greater chance is that the other one who has had the qualification and who has acquired the attitude of mind of the Bar would be the most likely to turn out well.

55,179. (*Mr. Coward.*) He would have acquired the principles of law too, which he otherwise would never get?—Exactly. He would never have passed the examinations. We know how good the examinations for the solicitors' branch are. Our examinations have gradually become very much better than they were some years ago—more difficult and better organised—and I hope that they will become better as time goes on. The use of an examination for legal purposes is this: it forces the man who is going in for it to read systematically and methodically rather than pick up his

knowledge in the way that I did; I was not forced to go in for examination, and, having had enough of examinations, avoided them, and I picked up my knowledge merely from cases. I never could read systematically books in the way that I should have read them if I had been going in for an examination. I have been convinced, from long experience of most intelligent and distinguished pupils whom I may say I have had, that the examinations do an immense lot for a man by forcing him to read systematically through a subject and get it up, and probably it is retained very well; but that which is picked up here and there, just when a point arises, is not the best form of legal knowledge. That is my opinion.

(*Mr. Coward.*) I am very glad to hear you say so, because it entirely agrees with my own experience.

55,180. (*Mr. Graham Wallas.*) It happens in other Government departments from time to time that an able young official during his official life, in the Colonial Office and elsewhere, sits for the Bar examination, and is called?—Yes.

55,181. He thereby gets a body of organised and arranged knowledge which is very useful for him in his later work, and he can do official work in the office on legal points. Do you see any objection to something of that kind happening in the Land Registry, that, if we succeed in getting a body of very able officials, they should be encouraged in some cases to qualify themselves by going through a training for the legal examinations, and passing them?—As the regulations stand at present the Land Registry clerks can be admitted as students and called to the Bar, and I understand that some of them have certainly been called to the Bar while there, so they have that opportunity. "Encouragement" suggests to me, of course, a rise of salary—that you raise a man's salary because he becomes a barrister.

55,182. It may be that you would give him a rather easy time for a few months when he is finally cramming up, or arrange his leave, and so forth, or otherwise by way of encouragement than by an increase of salary?—Exactly, I think it would be an extremely good thing. I should be glad if all the clerks, certainly all those who have the difficult matters of absolute title to deal with, had the best qualifications that could be obtained in the way of examinations.

55,183. Were the regulations you refer to regulations of the four Inns of Court?—Yes, the consolidated regulations of the four Inns of Court.

55,184. The officials in certain legal departments are not permitted to sit for those examinations?—That is true.

55,185. Could you say roughly what those departments are? For instance, is it the case that in the Central Office of the High Court the clerks are allowed to sit for the examination?—My impression is that there is a special provision against it—"officer or clerk in any Court of Justice" is one of the prohibitions. A person being an officer or clerk in any Court of Justice cannot be admitted as a student.

55,186. And also no person holding any appointment or performing duties analogous to those of such a clerk?—Yes.

55,187. And it is not held that the duties of the clerks in the Land Registry are analogous to the duties of any officer in a Court of Justice?—I understand from inquiry that I made on purpose, that it has been decided by the Joint Committee, with whom rests the whole of this administration, that a clerk in the Land Registry is not prohibited from becoming a student or a barrister. That is as it stands at present.

55,188. Do you know what is the *ratio decidendi* of that. What is the reason why one office is included and another is excluded?—I think I must ask to be excused going fully into that, because I am not a member of the Joint Committee, and these matters only come before me from time to time when there is a particular point to be decided.

Mr. W. S. TRATMAN and Mr. G. PLEASS (Mapping Staff, Land Registry), called and examined.

55,189. (*Chairman.*) (*To Mr. Tratman.*) What is your position in the Land Registry?—I am a superintendent surveyor, with the added position of examiner, for which I have received an allowance of 50*l.* per annum above my class pay for the last 15 years.

55,190. Did you enter the Land Registry under the circular of 17th August 1898?—I was in the Land Registry three years before the officials from the Ordnance Survey were transferred to the Land Registry, but I believe I come under that circular.

55,191. You had served in the Ordnance Survey before entering the Land Registry?—Yes.

55,192. (*To Mr. Pleass.*) You are a member of the staff of the Survey and Map Department of the Land Registry?—That is so.

55,193. You entered that office from the Ordnance Survey?—Yes.

55,194. At what date was that?—In November, 1898.

55,195. You wish to put before the Commission your reasons for claiming that you and others in the same position as yourself should be made pensionable?—Yes.

55,196. You entered the Land Registry in response to a circular from the head of the Ordnance Survey, dated 17th August 1898?—That is so.

55,197. Do you base your claim to be made pensionable partly on the terms of that circular?—We do.

55,198. That circular contains the following paragraph: "Employment on the Land Registry will be for five years certain, with probable permanent extension"?—Yes.

55,199. Do you claim that those words "with probable permanent extension" implied that after the first period of five years persons transferred to the Land Registry under this circular would become permanent, and also pensionable?—Yes, that was the idea generally conveyed, that after a probationary period of five years we should be placed on the establishment.

55,200. Is not that paragraph preceded by these words: "Employment on the Land Registry will not be pensionable, but men already possessing any pensionable rights will, it is believed, not forfeit them"?—That is so; but that was very essential, inasmuch as land registration was really on trial for five years. (*Mr. Tratman.*) Yes, it was a probation period.

55,201. Surely those words "Employment on the Land Registry will not be pensionable" are perfectly general and explicit. It does not say that the first five years' employment only would not be pensionable?—(*Mr. Pleass.*) No, but we were clearly given to understand so; at least that was the idea conveyed. As a matter of fact, I had an interview with Colonel Washington before I accepted this post, and he conveyed that idea to me, that after a probationary period of five years I should be placed on the establishment.

55,202. But that hardly appears to be consistent with the terms of the circular?—We thought that they were necessary as possibly registration would not be a success in the County of London.

55,203. Surely if you had before you an explicit statement that employment on the Land Registry would not be pensionable, you can hardly claim that there was any expectation of being made pensionable unless there was some equally explicit statement superseding that?—Apart from that, I think we have a great claim after the number of years' continuous service we have served.

55,204. That is another matter. Is that the main ground on which you put your claim, that your service has in fact been permanent and long continued, and that the nature of the work is such that you think the post ought to be made pensionable. Is that the main ground of your claim?—Yes, that our duties are of a permanent nature now.

55,205. You entered the department in 1898?—Yes, in November 1898.

55,206. So that you have now served for nearly 17 years?—Yes.

55,207. Have all the men who entered at the same time under that circular remained also up to the present time?—They are all in the department with the exception of a few. Mr. Hanrahan was pronounced

medically unfit in January 1904; Mr. Egan has since died; Mr. Fraser, who came with a pension, retired on a pension; Mr. Baterden, also transferred, died on the 16th August 1908; Mr. Hanson resigned to take up a better appointment in the Malay Settlements. There are also Mr. Tratman and Mr. Whitton, who are both superintendent surveyors, and Mr. Nightingale, a surveyor in the upper division, still in the department.

55,208. Apart from casualties and other incidental resignations, the staff have remained permanently. None have reverted to the Ordnance Survey?—None. (*Mr. Tratman.*) That was one of the conditions of employment in the Registry, that none of the assistants could revert to the Ordnance Survey.

55,209. (*To Mr. Pleass.*) In the paper you have submitted to us you also put forward the ground that since you left the Ordnance Survey men in the same position as you who remained in it have become pensionable on certain conditions?—Yes, they have.

55,210. The final document quoted in your paper contains these words: "When a man leaves one department in the public service and enters another, he cannot be affected in any way by changes afterwards introduced in the department he has left, or claim any different treatment to his fellows in the new department on such a ground." That is given as the reason stated by the Treasury for not accepting that argument in favour of your being made pensionable?—Yes, that was the reply with regard to it.

55,211. Have you anything to say in answer to that reply?—We still think we have a claim to have the whole of our continuous service recognised, as we were transferred to form the nucleus of this department—distinctly transferred from one department to another—because we were specialists in this particular kind of work and were specially selected.

55,212. That is rather on a different point. The Treasury say that what happened to your old department cannot affect you after you left it. Have you anything to say in answer to that?—I suppose we have to accept that.

55,213. So it really comes to this, that the substantial ground on which you base your claim is the nature of the work and the permanence of your employment?—Yes, that is so.

55,214. What exactly is your work?—I am unofficially classed as assistant superintendent, but I am officially classed as a surveyor in the upper division.

55,215. What is your salary at present?—23*4**l.* per annum, or 15*s.* per day.

55,216. Is your work entirely in the office?—Entirely in the office, and it has been for the past 13 years.

55,217. What is the nature of the work?—I have to assist the superintendents, and there are times when they are on leave, or sick, when I take up their duties.

55,218. But what is the actual work. Is it the work of making the maps from the material supplied by field parties?—No, the superintendents go through the cases and decide whether a surveyor should be sent to the ground. That is the first stage. If it is necessary to send to the ground, the instructions for the surveyor are written by the superintendent surveyor. The surveyor goes to the ground and returns the work to the superintendent who examines it, then the plans are prepared. Often questions arise as to the difference between what our surveyor found on the ground and the particulars in the deed. Then it is necessary to communicate with the solicitor; the solicitor calls and the points are discussed with the superintendent surveyor.

55,219. So that the work is partly the administrative work of directing the operations of the actual surveyors, and partly dealing with questions arising out of a comparison of the results of the survey with the deeds or other materials relating to the land?—That is so, and instructing the draughtsmen as to the carrying out of their plan work.

55,220. Instructing the draughtsman who prepares the actual map or plan?—Yes.

55,221. Does that include questions of boundaries?—Yes, if the boundaries are undefined, it is a question for the superintendent surveyor to decide whether they shall be plotted from the deed.

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55,222. Where there is a discrepancy between the data in the deed and the actual facts as found on the ground, the superintendent has to determine how the plan is to be drawn?—That is so.

55,223. Is he the final authority on points of that kind?—Not always. I take it that sometimes it is a legal matter. (Mr. *Tratman*.) The question of boundaries is left with the superintendent surveyor. Mr. Pleass's position, I might say, is, that acting as assistant surveyor, he takes a lot of the minor work on his shoulders that the superintendent surveyor would ordinarily have to do. The superintendent surveyor hands over to his assistant minor matters.

55,224. (To Mr. *Pleass*.) Does that complete the statement you wish to put before us as regards your position?—I should just like to invite your attention to the danger of delay in this matter, inasmuch as we have considered our claim to be a legitimate one for the past 12 years; and I regret to say that only last year one of our members, Mr. Egan, died. Had he been established, his widow would have received a gratuity; whereas her application to the Treasury was met with a refusal. I only give this as an instance of a real hardship of an old Government servant dying with the knowledge that his wife would receive nothing. I should like to add that all of us are growing old in the Service, and our aggregate years of service in the two departments average 31 years per man. As our only prospect at present on reaching the age of 60 is to resign with a compassionate allowance, which would be hardly sufficient to support one for more than a few months, we are strongly of opinion that our case is one for immediate attention.

55,225. When the men in the Ordnance Survey were made pensionable, what were the conditions on which they were given pensions?—They were only restored. Pensions were abolished by the Ordnance Survey in 1873 and they were restored again in 1907.

55,226. Was there a reduction of salary of those who were made pensionable?—Yes, I believe there was a reduction of salary.

55,227. Were they made pensionable on the whole of their service?—Yes, the whole of their service.

55,228. Was the whole of that service counted for the full amount of pension. Was not the pension to be calculated on half the period of service from a fixed date up to the time when pensions were given?—They were established after 15 years' service, but only seven and a half years counted towards their pension.

55,229. (To Mr. *Tratman*.) You have heard Mr. Pleass's evidence. Do you claim that the arguments which he has put forward apply also to yourself and the other superintendent surveyors?—As regards the meaning of the word "permanent" in the circular of the Director-General?

55,230. I meant rather as regards the general ground of permanence and the nature of the employment?—I think it is based on the length of service rather than on the meaning of the Director-General's circular.

55,231. Is there anything further that you wish to add with reference to the special position of the superintendent surveyors?—I wish to add, by way of additional evidence, that the superintendent surveyors and their principal assistants are responsible for the accuracy of the plans prepared for the register in all cases of first registration and transfer of parts of properties, together with the correctness of the index maps as provided for in the Land Transfer rules. The plan plays an important part in the registration of property. The officers in the Land Registry responsible for the verbal particulars in the register are all established servants, while the superintendent surveyors and their assistants responsible for the plans are all temporary assistants, many of whom have attained the maximum salary of their class for many years. Not one single promotion to the establishment has been made in the department which has to prepare and settle the plans, although the Compulsory Act has been in operation for 16 years. As the superintendent surveyors base their claim for establishment upon the importance and responsibility of their duties as well as upon the length of their service, it is thought that the

Commissioners should be acquainted with the nature of their duties, and a short statement of those duties has been prepared, together with copies, for the use of each Commissioner (*handing in the same*). This sets forth shortly the duties of the superintendent surveyors. We have to satisfy ourselves that the correct land is mapped out on the filed plan, general map, and index maps. To decide this, we are guided by the deeds, which frequently contain involved or obsolete descriptions, no plans, or very inexact ones. In cases of old deeds, with merely an open area of land, now built upon, it requires great care and expert knowledge of legal phraseology to interpret the meaning of the grant. In cases of doubt we correspond with or interview the applicants for registration (usually a solicitor). We are continually consulted by the assistants in the Legal Department, who are responsible for the verbal particulars in the register, and we act generally in the capacity of technical advisers. It is part of our duty to call the registrar's attention to questionable extent and claims for registration in excess of what appears to us to be included by the description in the deeds. Our work necessarily entails a good general knowledge of the nature of deeds relating to freehold, head-lease, sub-lease, copyhold, enfranchisement, ground rent, rent charge, mortgage, re-lease, easements, &c., and the various forms used in the registry, such as transfers, charges, discharges, cautions, priority notices, &c.; also, a thorough grasp of the Land Transfer Acts and the rules drawn up from time to time by the Rule Committee, so far as they affect areas and boundaries. We have to use considerable tact in our correspondence and interviews with solicitors, who, in some cases, are prejudiced against the working of the Acts. In connection with this, the registrar has expressed to the officials of the registry, "Especially to those who are brought into more frequent contact with the public" "the Lord Chancellor's high appreciation of the success with which they have performed their duties in circumstances which must often have called for tact, temper, and courtesy." An increasing number of registrations are entered with absolute or good leasehold title, involving the Treasury in pecuniary liability in case of error. As the plans for these titles are dealt with by us, and we take the responsibility for the settlement of the boundaries and initial the plans for the register, it is submitted that this is very important work, which should not be left in the hands of temporary officers.

55,232. You say that your work entails a good knowledge of the nature of deeds relating to various matters?—That is so.

55,233. I suppose that knowledge would be from the point of view of boundaries only, and not from the point of view of title?—Exactly; parcels and boundaries of properties.

55,234. Would not "a good general knowledge of the nature of deeds" be rather too wide a phrase for the knowledge that is required for your work?—Perhaps it is a little, I must admit. "The parcels in the deeds" would be a more correct phrase, perhaps. I may say that the increase in absolute title work during the past year or two has been very marked, and the tendency is for it to increase still further in the future. This class of work largely increases the labour and the responsibility of the superintendent surveyor who deals with the case. A request for a plan for an absolute title comes from the registrar with the following instruction. I quote from a recent case, and it is quite a typical example: "The land to be registered with absolute title is that comprised in the instrument of transfer of 18th March 1915, if it is also conveyed by the deeds of 3rd December 1863, the 10th March 1888, the 6th July 1888, and the 11th July 1910." This means that in the preparation of this one plan alone at least five deeds have to be perused by the superintendent surveyor dealing with the case. In some cases the deeds quoted by the registrar refer to descriptions in other deeds or particulars of sale, which means further research. Then, again, getting back to 1863, brings us to early descriptions and early maps, which have to be consulted, and so on. The registrar does not tell us what extent of land has to be included

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in the registration within the red line on the plan, but relies entirely upon the plan furnished to him by the superintendent.

55,235. Then the superintendent has to gather from one or more deeds exactly what the area is to which the particular registration refers?—Exactly.

55,236. And for that purpose he has to peruse the deeds and to understand them, at any rate so far as is necessary for determining the exact area to which they refer?—Exactly, and call the registrar's attention to any question of extent. In the case of absolute title it is very important.

55,237. Your representation is that that work is of so important and responsible a nature that it ought to be done by permanent and pensionable officers?—Exactly.

55,238. (*Sir John Kempe.*) What authority have your maps? Are they merely drafts which are discussed afterwards and settled by the legal department, or are they in themselves final maps?—They are in themselves final maps.

55,239. But are not they discussed with the clients, whoever they are, by the legal department of the office?—No, we interpret the deed and prepare the plan without reference to the owner, unless a question of doubt arises.

55,240. Then your map is not a mere basis for discussion by the office to enable them to settle it with the owners of the land; it is a final document drawn up for use?—It is a final document.

55,241. (*Chairman.*) Supposing the owner raised some question upon it, by whom would that be decided?—By the superintendent surveyor, if it should be what we call a mapping question. It may be the definition and meaning of the deed, and then it would have to be referred to the registrar.

55,242. It would depend upon the precise nature of the question, how far it was a legal question and how far it was a surveying question, whether it would be

determined by you or referred to the registrar?—Exactly—that is the situation.

55,243. (*Mr. Graham Wallas.*) Would you be satisfied if you were given about the same terms as were given in 1907, in the matter of pensions to the Ordnance Survey officers?—No, I think that would not satisfy us, considering the fact that we have been upon our maximum for five or six years, and our maximum is a small one.

55,244. But I am talking about pensions now, not salary. I do not see how the fact that you have been at your maximum five or six years is related to the question whether you should be treated differently from the Ordnance Survey people in the matter of pension?—(*Mr. Pleass.*) We consider that that would be an additional hardship. (*Mr. Tratman.*) That would mean losing something immediately, would it not, in the way of pay? (*Mr. Pleass.*) Our salary would be reduced to pay for our pensions.

55,245. As I understand, there was a reduction of salary in that case, but the pension probably very largely outweighed that. I fancy it was universally accepted by the Ordnance Survey people?—The terms are very poor. They had no option in the matter.

55,246. What sort of terms do you ask for now as compared with theirs?—(*Mr. Tratman.*) I was going to suggest that the superintendents' maximum be considerably increased. In fact what I intended to put forward was that we should be allowed to progress to 500*l.* per annum.

55,247. But confining yourself to the question of pension for the moment, what terms as compared with the Ordnance Survey terms do you ask for?—(*Mr. Pleass.*) We think that we should not be put on a contributory scheme, and that we should be placed on the establishment without having our pay reduced.

55,248. And with the whole of your back service counted as if you had been in a pensionable position the whole of that time?—(*Mr. Tratman.*) Yes. (*Mr. Pleass.*) A certain amount of it to count at least.

ONE HUNDRED AND THIRTY-SECOND DAY.

Thursday, 6th May 1915.

PRESENT :

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Sir DONALD MACALISTER, K.C.B.

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. PHILIP SNOWDEN, M.P.

Mr. GRAHAM WALLAS.

Miss HALDANE.

Mrs. DEANE STREATFEILD.

Mr. E. W. H. MILLAR (*Secretary*).

Sir KENNETH AUGUSTUS MUIR MACKENZIE, G.C.B., K.C., recalled and further examined.

55,249. (*Chairman.*) Sir Kenneth, in your former evidence you made a suggestion that all appointments in legal departments should be made by a Minister responsible to Parliament—presumably the Lord Chancellor—and that he should be assisted by a committee to examine and report upon the qualifications of the candidates. Since then we have had evidence from Lord Loreburn among others. Lord Loreburn expressed in many respects the same view as you did, but he suggested that the actual appointments should be made by a committee of the kind which you contemplated, and that the matter should only be referred to the Lord Chancellor if one or more members of the committee dissented from the decision of the committee and asked for a reference to the Lord Chancellor. We should be glad to have your opinion on that suggestion made by Lord Loreburn, and generally your views as to the respective merits of that precise form of scheme

and the scheme which you suggested?—I remain of the same opinion as before. I am aware of what Lord Loreburn said on the subject, but I have always looked upon it as a sound principle—our constitution being what it is—that ministerial responsibility should be preserved in the case of public appointments, and I think that we said something to that effect in the report of this Commission on the public service generally. I think that was the opinion prevailing here during our discussions as far as I remember. At any rate, that is my opinion; if the Commission wish to know my opinion it is that it is desirable to retain that.

55,250. In the fourth report of the Commission, in the chapter relating to the professional and technical Civil Service there is this paragraph: "In the second place, though the ultimate power of appointment must, as a result of our constitutional system, remain with the Minister who is responsible to your

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"Majesty and to Parliament for the administration of each department, the preliminary selection of qualified candidates to be submitted to the Minister for his choice should, we think, be entrusted not to an individual but to a committee?"—That comes to very much the same thing.

55,251. You confirm that?—I wish to adhere to that. I signed that report, and whatever shades of difference there may be amongst us that is what we signed, and I do not know that it has been so far suggested that there is any difference in that respect between the legal departments and other departments of the State. I do not think it was put to Lord Loreburn, and perhaps was not present to his mind, whether there was supposed to be any difference between the legal departments and the other departments of the State so as to make it desirable that there should be a different principle of appointment applied in the one case to that which is applied in the other.

55,252. No. I think that precise point was not put to Lord Loreburn. The point of responsibility to Parliament was put to him, and his reply was, in the first place, that everybody, including a committee of that kind, is actually responsible to Parliament though perhaps not technically responsible?—I remember he said that.

55,253. And also he preferred that the actual appointment should be in the hands of a committee who would not be subject to the political pressure to which a Minister in direct contact with Parliament is exposed. You do not consider that those considerations weigh against your former opinion?—No; the Minister must endure that pressure as far as it exists.

55,254. You attach great weight, you told us before, to that question of responsibility to Parliament?—Yes, I do.

55,255. And for that reason you adhere to the recommendation that patronage should be no longer exercised by judges or other persons who are not responsible to Parliament?—Yes; I feel strongly about that.

55,256. The composition of the proposed committee was also discussed in the course of Lord Loreburn's evidence, and his recommendation was: The permanent secretary to the Lord Chancellor in his individual capacity, a representative of the Treasury, the head of the department concerned, a representative of the Civil Service Commission, and an eminent solicitor. Do you agree with that suggested composition of the committee?—Yes; I should think that that was not a bad committee. It is, however, rather a large committee, for one thing, and there is no absolutely independent member upon it.

55,257. By "independent," do you mean outside the Government service?—I mean outside the kind of influences that bear upon the question of selection. It is proposed that there should be a solicitor. Well, one of the questions that arise in connection with appointments to these offices is whether they should be—I think the Law Society almost goes so far as to say they ought to be—appointed entirely from solicitors; so I should not look upon the solicitor, though a most useful member, as being an entirely independent member. I should like to see some man who is not connected with the profession at all—neither connected with the professions nor with the offices.

55,258. In place of the solicitor?—I do not say in place of the solicitor; I should have said in addition to the solicitor, subject to the objection, as I have already said, that I think the committee is large.

55,259. The representatives of the Treasury and the Civil Service Commission would be independent in that sense; they would have no connection with the professions?—No; they have a strong official connection, and the very things that would make them valuable, namely, the economic view that the Treasury would take, and the general knowledge of all the other departments which the Civil Service Commissioners would bring in, would also make them slightly narrow; they would be chiefly influenced by those considerations which were their own qualifications for being present; and I think if you could get an outside man—a business man—some person connected with the great industrial undertakings,

or some man of that sort, to sit upon the committee, it would be an advantage.

55,260. The committee would have a good deal of detailed work if it were to recommend, as regards all appointments and all promotions, which, I think, was the idea. Would not there be some difficulty in getting a man actively connected with any large business undertaking to give the necessary time to it?—I think it would be very difficult.

55,261. In a system of that kind, if it were instituted, would you suggest that applications should be received and a list of candidates kept in the Lord Chancellor's office, as it is at present in the case of the appointments which he makes, or would you have separate registers of applicants for different offices?—I do not think I am prepared to give an opinion about that. I think that if some system, such as we talked about on this Commission before, and such as I am to some extent advocating now, were adopted, or were recommended, you would have to say that it would have to be worked out elsewhere by some sub-committee, or worked out between the Lord Chancellor and the Treasury, or something of that sort, as to how it should work. I am not here prepared to recommend a worked-out scheme for this. It may sound surprising, but I am pretty well content with things as they have gone on for a very great many years.

55,262. Another question which has arisen in the course of the evidence is whether it would be desirable to change the present system under which, generally speaking, new entrants to the service are appointed to the third class, and the higher classes are filled by promotion from the third class. It has been suggested by some witnesses that it would be desirable to have two separate grades—a lower grade, which would do the more mechanical clerical work of filing documents, keeping books, issuing notices, and so forth, and a higher grade, roughly corresponding to the present first and second classes, who would do work of the better kind, requiring in most cases some professional qualifications, and that there should be separate recruitment for that higher grade. At the same time all witnesses who have suggested a system of that kind have added that it would be undesirable entirely to shut the door on promotion from the third class, supposing there was a man of exceptional merit and ability who was qualified for the higher work. Will you give us your opinion on that suggestion?—I think such a system as you speak of is quite workable. I think you could set up a system of that sort for our legal departments, and I have often talked about it in past years. When the present classification was set up I think it was rather indicated that a classification of the sort which exists was what was expected by Parliament in the Officers' Act of 1879, which lays down that they are to be of the first, second, and third class, or some expression of that sort. The whole subject was a great deal considered in those early days—about 1880—and it ended in the establishment of the present system with the first, second, and third classes. I do not think that at that time it was considered by any means settled that everybody was to be appointed in the third class. There is no doubt that, as matters stand, if a vacancy occurred of a post in the first class the person having the right of appointment at present might exercise his legal right to appoint straightway to the first class from outside; but it has gradually come, as a matter of working, to be the case that men have been appointed in the first instance in the third class. I should not like to disclaim having had a good deal to do with that. My own personal influence in the matter has always gone in that direction. I have always held, as I think I have expressed in the Commission, the view that the general principle of appointing at the bottom and giving every man a chance of rising to the top is the best principle. My natural feeling is in favour of it. I should not be at all prepared to admit that it had not worked well on the whole in those parts of the legal departments where it was possible to apply it. Of course, there have been objections and there have been difficulties, but not more than one expects in every system which you have to deal with; but I think on the whole it has worked well, and I should be rather sorry to see an inferior class of men brought in in the third class—I

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mean a set of men who would be given to understand that, subject to very exceptional abilities displayed by them, they would never rise beyond 200*l.* a year. I should be sorry to see that; I think the objection, which has been, I have no doubt, mentioned here, that those men come in and then only have very inferior work to do, and may be for many years kept upon that routine work and so deteriorate, ought to be removed, and might have been removed more than it has been, by giving those men more share, or more opportunity of sharing, in the better work and seeing the better work as it goes on. I do not think that men have actually been precluded from seeing better work, because, as a matter of fact, the good men who have been appointed in the third class have nearly always succeeded in showing their merits to the heads of the departments, and when questions of promotion have been under consideration, I have never had any difficulty in finding out who were the men in the third class who showed promise and who were good men. I think the man who has no spirit, and as to whom those who appointed him have been deceived as to his promise of ability, does succeed in proceeding in a humdrum way and never has his eyes open to any better work than that which is immediately under his hands; such are the men who, thereby, to my mind, have not proved that they are worth more than 200*l.* a year, and I neither expect them to be promoted nor wish them to be promoted.

55,263. As a matter of fact, under the present system, are not they very often promoted? What we gathered was that, though theoretically, promotion was by selection, in practice it did go very much by seniority?—Selection is very difficult to manage. It requires great resolution of every kind. If the responsibility lies with you you are appealed to in every kind of way, and it is difficult rigidly to refuse to promote a man, especially when the heads of his office will not go the length of telling you that he really is unfit. The responsibility does not lie absolutely with them, and so they will not take it, and they leave it to you; then you, on the other hand, find it very difficult, not having got the full strength of their views behind you, to shut the door against such a man. So that men do eventually get promoted, I have no doubt, in some instances, who are not supposed to be promoted, when you lay down the principle that promotion is to be by selection.

55,264. Do you think that the suggested committee would be able more rigidly to apply the principle of selection?—I do not know. It is very very difficult to say. I think it is the old story: If you have got a really strong, competent single man at the head it is the best thing you can have; but next to that, probably, some sort of a committee is better than a weak man.

55,265. The committee could, of course, take steps to get systematic information as to the merits of a man?—So can a single man, certainly; and it is his duty to do so.

55,266. To go back to the main point, I gather that you prefer, on the whole, the system of promotion from the bottom rather than the system of division into two grades?—Yes, I think I do; but I am not saying that you could not work such a system as you suggest. It is not my proposal, but if I were remaining in my office and were told by the Lord Chancellor to carry out a recommendation from this Commission on those lines, I do not foresee any difficulty about it. It has its merits.

55,267. It was pressed upon the Commission, especially with reference to certain departments—the Land Registry, for instance?—I dare say. The Land Registry is not really one of the legal departments; it is a different thing by itself; and if it is a proper moment to say it, I think, probably, it was a mistake in the first instance to give the same organisation to the Land Registry as that which we already had in the legal departments. I am personally, no doubt, responsible for that to some extent, and I think it is now pretty well proved that the other kind of system would have been better in the Land Registry.

55,268. It was suggested that there were very definitely two different kinds of work—professional work such as the scrutiny of title and the clerical work con-

nected with the applications—and that these two kinds of work should be represented by two different grades of officers?—Yes; but what it means, I think, is this: With the exception of those men who are to do inferior clerical work and the mere routine work, the great mass of the business in the Land Registry is business that has to be done by professional men of a class different really from any of our clerks in the legal departments. The way our legal departments are organised is, that the clerks only go up to 600*l.* a year. It means a different class of men really from the men who are expected to deal with the work in the Land Registry.

55,269. It was also suggested, I think, by some of the witnesses who dealt with the Chancery departments that the system of two grades which exists in one of the Chancery departments, in the Registrars Office, would be applicable to Chancery chambers as well?—As I said before, you could work out such a system, but I do not know that it would be any better than what we have already, which I think, no doubt with faults, has done fairly satisfactorily. Of course I do not know what evidence you have had before you upon the subject. I have not had time to go through the evidence. I do not know whether you have had positive evidence before you that the work in chambers is not satisfactorily done, and that you want an alteration of staff. I am not aware of such evidence.

55,270. I think we have no evidence that the work is not satisfactorily done?—No, I should be very much surprised to see evidence to that effect, because I do not think it would be fair on the men.

55,271. The evidence was, I think, rather to this effect: That for the better work in those offices it was desirable to have men with previous legal experience, but that that was not wanted for the purely clerical work of the lower kinds?—No; but you can organise, and to some extent the work is organised in Chancery chambers, so that a man when he first comes in is presented with work for which you do not require a man with professional qualifications. What we do now generally is, to appoint a man with legal training, because we expect him after a time to qualify himself for going up, at any rate, to 600*l.* a year.

55,272. It was represented also from the point of view of the individual, that the man who has had previous legal experience must come in at the age of, say, 24 or 25; and that if a man with some previous qualifications comes in at that age at the bottom of the third class, and works slowly upwards, the scale of pay is inadequate for his age and responsibilities?—I think, of course, there is something to be said for that, but judging from the applications that there are for those offices, and from the men whom we certainly are able to appoint to those offices, I should say that the salaries prove themselves to be sufficient. I think that there is a good deal of advantage in everybody having some practical acquaintance with what the routine work is at the bottom of an office. I believe that that is in mercantile life recognised. I think we heard here that even for a man who has expectations, and who is expecting to blossom out into a partner or a director, it is a very good thing that he should sit on a high stool for a time in the first instance.

55,273. Would not that be qualified by the very important condition that the period of sitting on the high stool should not be too prolonged?—I quite agree.

55,274. I gather that on the whole, although you think that the system of two grades would be workable, you would prefer to retain the present system except in the Land Registry?—Yes, I think so. I should doubt if any case had been made out before you for making an alteration. When you consider all the difficulties of transition and so forth, I should have doubted whether there was a case; but I do not know what has been said before you.

55,275. There are other questions that have arisen with regard to classification. It has been pointed out that in certain offices the classification into three classes does not really correspond to the actual division of the work. For instance, in the Taxing Office there are the three classes of clerks, but the organisation of the office is that each taxing master has a senior and a

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junior clerk. The senior clerk is either a first class or a second class clerk, as it may happen, for the purposes of pay, and some discontent is caused by the fact that men who are occupying the same position in the office and doing identical work are in different classes for the purposes of pay?—It is not very easy, perhaps, to explain how that arises. It was settled in 1880, when our establishment was placed upon its present footing, that the practice was to continue in the Taxing Office of each taxing master having a principal clerk who had from 500*l.* to 600*l.* a year, and then a junior clerk on the lowest scale. There were two or three considerations which led to that position being modified. One was that it so appeared that the Taxing Office was differently organised from the rest of the departments; that you there, instead of having first, second, and third class clerks, had first and third class clerks only. Then there came in this consideration—which, at any rate, always weighed with me very much—a desire to transfer from one department to another, and you would get cases where you might wish to transfer a man who was in the third class in another department and to benefit him at the same time, because you wished to transfer him as he showed himself a good man, and you wanted to put him somewhere. You could not transfer him from the third class into a first class clerkship. So I think you would find, if you investigated the history, that there was more than one case of a man being transferred to the Taxing Office, but transferred with the position and salary of the intermediate scale as a second class clerk. Then a third thing was this: Of course there is a tendency in every one of the departments in an establishment organised like that, for promotion to go up inside that particular department or section. Well, it is a very strong order and quite inconsistent with the practice in the other parts of the establishment, that a man should jump up from the third class to the first. A case of this sort would arise: Upon a taxing master losing his principal clerk, he would say, “Well, my junior clerk is a “very good man, and if you consult me I should “like to have him,” and he, perhaps, makes out a very strong case for having this man. If this man was appointed originally on the principle that I have always advocated—that is, of getting rather a high class man who would be able to look forward to promotion—it is quite on the cards that this third class clerk really has a very fair case for promotion, and, as far as I had to do with it, I should say, “Well, I think “we ought to do something for this man, but he cannot “be pitchforked at once into the first class.” So it came about that we constituted a certain proportion of the clerkships there as second class clerkships, and by that means we made a sort of ladder, by means of which he was able to get on towards the top. In that way the second class clerkships came into the Taxing Department, though the man who had risen a step would have to do the work of principal clerk for his taxing master, notwithstanding that he did not receive a salary of 500*l.* to 600*l.* a year. I do not know if I have made it clear, but that is how it arose.

55,276. Quite so. The clerks in the Taxing Office who appeared before the Commission represented that when that office was originally constituted on its present footing in the year 1881 there were only two classes of clerks, and they were first and second class?—I think that was so.

55,277. And they thought they had some right to complain of the subsequent changes which had resulted in the creation of a third class, and therefore a considerable reduction in the general scale of pay for the work?—I am surprised at your acquaintance with ancient history. I had forgotten that; but that was so. What happened at that time was, that having settled what was to be the form of the establishment we then had to squeeze all the existing men into that. All the offices were separate, and different offices with their own scales of salaries and their own classification. We had in the first instance to squeeze that into our new mould, and difficult personal questions did arise at that time as to whether a man whose salary was of a certain amount was to be deemed to come into the second class or into the third class. Now that you mention it, I have a recol-

lection that that was one of the storms we had to encounter at that time.

55,278. When the present organisation was first created the existing men were placed in the first and second class, and that arose from the fact of the level of their previous salaries?—That is what it was; but I thought at that time they were made first and third class, and that is my recollection.

55,279. Their statement was that they were made first and second class, and they complained of the subsequent introduction of the third class?—I am afraid my recollection may be at fault.

55,280. At any rate, the exact placing at that time depended on their previous salaries, and did not imply any decision at that time as to what the future organisation of the office was to be?—No.

55,281. They also suggested that this difficulty of classification might be got over by doing away with the system under which one senior and one junior clerk are assigned to each taxing master, and pooling the clerks in the office, so to speak, giving them certain work and not necessarily the work coming from a particular master; and if that was done it would be possible to make a distinction between the work of the first class and the work of the second class?—May I ask who suggested that?

55,282. That suggestion was put to three clerks from the office whom we had before us yesterday. When that question was put to them they said with some emphasis they thought it could be done, and that it would be an improvement upon the present system. We have not heard any evidence from a master on that particular point?—I think it would be important to have evidence from a master before deciding that. I have always believed myself, from the sort of evidence that has been before me, that that kind of pooling could not be done in that office. I have accepted that, although my disposition is in favour of pooling. I should always be inclined myself to think that you could pool. My recollection is that the masters, at any rate, have always been against any idea of that sort, and that really no suggestion from a responsible quarter has ever been made in that sense.

55,283. A similar difficulty as regards classification exists in the Chancery Registrars' Office. I think you mentioned that when you gave evidence before?—Yes. There has been somewhat the same consideration that I was mentioning in regard to the Taxing Office. There has been a considerable desire to make the classification and the scales of salary and so forth, in the Chancery Registrars' Office, more like what it is in the other departments, and I do not think there is any very strong reason against it. The office bears a very different complexion now from what it was some years ago, because a strong attempt has been made—perhaps it would be frank to say that I have made a strong attempt—to bring men from other departments into that office, and also to break down the old system under which the Chancery Registrars' Office was organised. That was, as you know, a system under which only young solicitors' clerks could be brought in in the first instance, and having been brought in they had nothing to do but to exist in order to become full-blossomed registrars, and with salaries at that time which were much higher than any other salaries in the Supreme Court. That system of succession has, of course, now, you may say practically, disappeared. I do not suppose anybody could be found to say a word in favour of it; I have never heard of anybody. The committee known as Mr. Justice Kekewich's Committee made a strong recommendation that that right of succession should no longer exist, and that the appointments both to the registrarships and to the clerkships should be much more open than they have been until recently. The organisation of the clerkships in the Chancery Registrars' Office is really more like what you have been referring to than what it is anywhere else, because there is a class of clerks that used to be called assistant clerks, who were a set of men entirely precluded from exalted office; they were almost hewers of wood and drawers of water in a class by themselves altogether beneath and outside those who were called principal clerks to registrars and who eventually became registrars. In recent

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years the appointments to that lower class of officers who under the modern establishment are called third class clerks, have been of a better class of men in a great many instances, and where they have shown themselves good men they have in some instances been transferred to other offices, both to the Central Office, where they have had a chance of going up, and also on to the Chancery side where two or three of them have done extremely well. But there is no opportunity for those men at present to go up in their own department of the Chancery Registrars.

55,284. You told us that the present principal clerks had been appointed with notice that they would have no statutory right of succession to registrarships?—Yes.

55,285. Mr. Registrar Farmer in his evidence made this statement: "Though it is a fact that the principal clerks in the office have no right to succession, there is not the slightest doubt that those who were qualified under the Act came into the office on a tacit understanding that they would in due course succeed to the registrarship." Do you agree with that statement?—I quite concur in the word "tacit," but not otherwise, I think.

55,286. Mr. Farmer made that statement, and I called his attention to the evidence you had given on that point. He said in reply to the words you had used, which I quoted to him, "I think that was a correct statement, with this proviso, that I think the clerks coming in came in on the understanding that they would succeed. I think that is the way they understood it"?—Mr. Farmer did not say that he had any statement in writing or any verbal statement, or any statement as far as I can make out, except a tacit statement from me, or from any other authority, did he?

55,287. No. He did not assert that any statement had been made. He put it in that way, that it was a tacit understanding?—There may have been a tacit understanding, but I do not know what a tacit understanding is.

55,288. (Mr. Coward.) I was going to ask him at the time to give us an explanation of what the understanding was?—I do not know, I am sure. Understandings are very often things that seem to require only one party—I know that.

55,289. Especially when the word is used by a lawyer?—I understand the word "agreement."

55,290. (Chairman.) You do not admit that there was any understanding of any sort on which any claim to succession could be founded?—Absolutely none. I am sure that no man in the department would say that he had ever heard from me that he had any claim. I was going to say any expectation, but I think, perhaps, it would go rather far if I was to say no expectation, because I can quite imagine that in talking to a man about the office I should say "Well, if you show yourself a very good man of course you have got a very good chance of getting a registrarship." I can quite understand my saying that. I should be sure to say that, I think.

55,291. Turning to the Land Registry again, if there were two grades there, I presume for the higher grade some professional qualifications would be required?—Unquestionably they ought to be professional men.

55,292. Barristers or solicitors?—Yes.

55,293. It was represented to us by the first class clerks in the Land Registry that the expectations they had formed on entering the Service had not been realised, and that the work they were doing was better work than corresponded to the position and salary of a first class clerk. They asked for some improvement of their position both as regards the designation of their class and as regards their salaries. Will you give us your opinion on those claims?—I am inclined to think that there is some justification for their view. There has no doubt been a good deal of disappointment in the Land Registry. It was thought when the Land Transfer Acts were passed in the nineties that the registration of title to land would extend all over the country, and I have not the least doubt that many of the men who went into the Land Registry looked forward to it as a rising department. Well, it has

remained, to a great extent, stationary; there has been great opposition to the extension of the system of registration of title—perfectly legitimate opposition. There is a great deal to be said on both sides; but the result has been that men who went in with the expectation that they were going into a department that would grow very large have been disappointed. You cannot establish a very strong claim upon that; to a great extent, of course, it is a speculation. If things had gone as it was expected at the time by many people that they would go, many of those men no doubt would have got into very good positions; they would have been the heads of local registries, which were intended to be established, and in other ways they would have got on much better than they have got on. I think that probably the limit of pay which arises from the organisation of the legal departments having been imposed upon the Land Registry—I mean the limit of 600*l.* a year—is one that is hardly appropriate to, at any rate, some of those men.

55,294. They represented that the first class clerks generally were doing work of the same kind as is done by the assistant registrars, and were giving final decisions on questions of absolute title?—It is so. There is one thing which has to be borne in mind in discussing the staff of the Land Registry, if we are discussing it at the same time as the staff of the legal departments, namely, that the Land Registry is a self-supporting institution. The Land Registry has to raise its own fees and pay its own way, and if it is not doing a very large and flourishing business its income does not enable it, of course, to pay its officers so highly as it might wish to pay them. If you want to pay them more highly, you would perhaps have to raise the fees for registration, which would be an objectionable thing to do. That is a difficulty. The legal departments themselves are not in the same position as many of the public departments of the State, where the salaries are borne upon the votes and paid for out of the taxes. In the legal departments all these payments that we are speaking of—the salaries of the officers and so forth—are paid out of the fees.

55,295. But can you properly take that into account in determining the proper salaries to be paid?—In the Land Registry I think you must take that into account. You say that the first class clerks ought to be paid more money. Very well, that is all right. Where is the money to come from? The only way you can get the money is by raising the fees. It is not certain that you would get it then, because very likely the work would diminish.

55,296. On the other hand, if you apply the principle of remuneration depending on whether a department pays its way or not throughout the Civil Service, would not you arrive at some surprising results?—I dare say you would.

55,297. Would not that lead to a very much higher scale of salaries in the Post Office, for instance, than in the Admiralty or in the War Office?—Yes, I suppose it would.

55,298. I would suggest that in fixing salaries it is necessary to look at the work and the proper scale of remuneration for that work in the State service, and not to the actual financial result of the department?—I do not think anybody can doubt that your principle is absolutely sound, but you cannot work it out without asking the question which I asked just now, "Where is the money to come from?" In the case of the other departments of the State the Treasury has to propose the money on the Estimates of the House of Commons but with the Land Registry and the Office of the Public Trustee that is not so. By Act of Parliament they have to raise by fees enough to cover their own expenses, and they would have to raise their fees in order to increase the salaries.

55,299. (Mr. Coward.) That would offer a strong bar to any extension of the Land Transfer Act, would it not?—Yes, of course.

55,300. (Chairman.) Then you would say that those two offices are in a peculiar position because of the statutory limitation of the amount of their expenses?—Yes, it is a great difficulty; but your question was whether I thought that the first class clerks in the Land

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Registry had a case for being better paid. I think they have.

55,301. Do you attach any importance to their claim for a change of designation?—I do not attach any importance to it either way. If it is any pleasure to them I do not see why they should not be otherwise named.

55,302. If a higher and a lower grade were created in the Land Registry in that way, what would be your view as to the position of the lower grade. As regards recruitment, you suggested that open competition might be applied throughout the legal departments. Would you apply open competition in that case?—Yes, if it is for a class of men who are—subject to very very rare exceptions—not to rise above something like 200*l.* a year. I think we made some limit in the former Report of this Commission on those lines.

55,303. The lower grade there would roughly correspond to that junior clerical class which was recommended by the former Report of this Commission?—Yes.

55,304. Do you agree generally with the statement made by Sir Charles Brickdale in his evidence on that point?—Yes. Is that inconsistent with agreeing that open competition is at any rate admissible?

55,305. I suppose, if it was desired to recruit especially law clerks, some form of limited competition, or some form of competition with the qualification of service of that kind would be the appropriate method—open competition among clerks possessing some legal experience?—I have never myself been able to see the difficulty about that, but witnesses here I think have spoken about it as being impossible. I am not sure that the Chief Civil Service Commissioner did not say so.

55,306. Mr. Leathes stated, I think, not that it would be impossible, but that the definition of service as solicitors' clerk would present difficulties—that it would be difficult to discriminate between an office boy and a clerk who was really doing work of some value. Do you think that those difficulties could be got over?—I should have thought so. I am unable to see the difficulty myself. If I was told to work out a scheme on those lines I am sure I could do it, though I am not prepared to say now how I should do it.

55,307. In your previous evidence, I think the question was mentioned of the possibility of having an intermediate grade between the masters and the first class clerks for performing in a more economical manner some of the minor work which is now done by the masters. Some witnesses have expressed an opinion contrary to that suggestion, on the ground that, if a man in the position of a master has to deal with a case, it is desirable that he should deal with it continuously, and that there would be loss of force and loss of time in transferring particular points which might in themselves be less important but which arose in the same case?—I think there is a great deal to be said for that view. I understand that view being held by the masters. I do not like to express a very strong opinion as coming from my own authority upon that question of the intermediate grade, which is a very difficult question; but it happens that I have very high authority for saying that a scheme of that kind could be worked out and was desirable to be worked out. I think the name of Mr. Justice Pearson may have come before you in connection with what was called the Chancery Committee in 1885, which introduced a good many changes and a good many improvements at that time. Whether Mr. Justice Pearson's scheme appears in an appendix to that report I do not remember.

55,308. It does appear, in the report.—I am only speaking from my recollection of conversations with Mr. Justice Pearson, but he used to tell me that, in his opinion, you could organise the Chancery Division, and that it would be better organised if you had a smaller number of masters (that is to say, officers paid on the scale of 1,500*l.* a year) and more of a pyramid of officers, such as you generally see in a public department. I think he thought that one master with a salary of that kind in each judge's chambers was enough, and that he should have under him two assistant masters with salaries of from 800*l.* to 1,000*l.*

a year, or something of that sort, and two grades of clerks below that doing responsible work; and, finally, some sort of routine copying clerks at the bottom. I think that was his kind of scheme. I think it had the advantage of costing less money, but I do not think that entered very much into his mind particularly; he was only thinking of the best way of working the office.

55,309. (Mr. Coward.) He would say, would he not, that there would be more control centred in one individual at the head?—I have very little doubt but that was the main thing.

55,310. I was proposing to ask you whether that was not a very desirable thing?—Therefore, if I may use the expression, I was brought up by Mr. Justice Pearson to consider that that would be a very good organisation for the Chancery Division.

55,311. (Chairman.) Mr. Justice Pearson's phrase was that "At present there are too many generals and too few captains." That expressed the basis of his suggested reform?—Yes, that was his view. If Mr. Justice Pearson thought that that organisation could be constituted for the work, I am perfectly satisfied that it would work well. It must not be understood for a moment that I am suggesting that I do not think that the work is well done in Chancery chambers now; I think it is very well done.

55,312. But you suggest that those at the head—"the generals," as Mr. Justice Pearson called them—are more numerous than necessary, and could be replaced to some extent by officers of an intermediate class?—I believe there would be an economic result, and I think Mr. Justice Pearson himself went further and thought that it would have good administrative results, too.

55,313. Apart from the question of the particular grading of the officers, do you think that the staff in the Chancery offices is greater than is required at the present time?—My own disposition is to think that amongst the clerks, as well as amongst the officers, there is a greater proportion of the higher-paid grades than you would find in other public departments, and I should have thought there was no necessity for them.

55,314. We have had figures before us showing that there has been a very large diminution in the amount of Chancery business in the last 25 years—a diminution of 30 to 40 per cent.—and that there has been no corresponding diminution in the staff of the Chancery offices?—I am not quite satisfied that that is the fact. There was a considerable diminution made in the staff of the Chancery Division when a separate department of the Companies Winding-up was established. I do not say that actually, when you count the addition of that new department, the reduction was anything substantial; but actually in Chancery chambers, in the Chancery Division itself, there was a reduction. I do not know what evidence has been before you about the great reduction in Chancery business.

55,315. The evidence was the evidence of the judicial statistics?—Statistics are very difficult things to deal with. There was a very great change made in 1883 (which was subsequent to the establishment on the footing on which we still have it), when there was the introduction of a thing Mr. Coward would understand well that was called an "originating summons." The meaning of that was, that instead of having to throw the whole of an estate into Chancery and administer the whole of it in Chancery, as you used to have to do, if any question arose in relation to it you could, on what is called an "originating summons," simply bring before the Court the one particular question in relation to the estate that you wanted to have decided. Of course, that did make a very considerable difference. In many cases you got rid of all the work connected with a large estate. On the other hand, I think, there was a great multiplication of the smaller questions, and I do not know whether it is really true that the amount of business has diminished to any very great degree.

55,316. The comparison made was with the period ranging from 1888 to 1892, which was subsequent to the change of practice of which you have spoken.

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Taking a comparison with that period, the reduction in the number of summonses was about 35 per cent., the reduction in the number of orders made in chambers was about one-third, and the reduction in the number of accounts passed was about 45 per cent. Those figures were put to Master Fox. He was asked whether that diminution in the statistical number of cases had been set off by any increase in the importance and length of the cases, and he said that there was some set-off in importance, but not in length. Those figures would indicate a very substantial diminution?—They would.

55,317. Taking that period as the starting point—1888 to 1892—there has not been any considerable diminution in the staff of the Chancery Chambers?—No.

55,318. Does not that suggest that the staff at the present time must be very ample for the work to be done?—I should think that it was ample for the work to be done.

55,319. And could probably be diminished?—I think you would probably find if you went into the question of diminishing it, that the way the work is divided between the masters and the clerks, and amongst the clerks themselves, creates a good deal of practical difficulty in actually diminishing the number of any one of the ranks of clerks. I cannot go into detail in the matter just now, but I have several times gone into the question and have never succeeded in making any progress with it; that is all I can say. I mean by that, that reasons were given or difficulties arose which made me drop it at the time—meaning that I think there were good reasons, and that they were real difficulties, although I do not say that, to my mind, they were always absolutely conclusive.

55,320. Did those difficulties arise principally from the allotment of particular clerks to particular masters—the system of water-tight compartments in which each master works?—I think that has always been one of the difficulties.

55,321. Those difficulties would to some extent disappear, would they not, if an alteration on the lines suggested by Mr. Justice Pearson were made?—Yes, I think so.

55,322. A question has arisen in the course of the evidence given as regards the detailed internal administration of the offices. You told us that in the Central Office, for instance, a committee of control, selected among the masters, is responsible for discipline, and so forth; but some evidence was given which seemed to show that there was a certain lack of contact between the controlling authority and the details of the offices. The committee of control is not constantly meeting; the masters who compose it are not themselves constantly in contact with the individuals who do the work of the office, and there seemed to be a lack of some suitable machinery for dealing with such questions as punctual attendance, arrangements for leave, sick leave, and questions of minor discipline of all sorts. A suggestion has been made that an officer, corresponding to the officer who in some of the departments of the Civil Service is called the chief clerk, would be useful. He would serve as the link between the controlling authority and the actual details of the office, and he would be, to some extent, the executive officer of the controlling authority. Such an officer would also be charged, under the controlling authority, with the details of the distribution of the work, the transfer of men from one particular kind of work to another, and so forth. How does that suggestion strike you?—I do not think it strikes me very favourably. I am sorry to hear that evidence has been given before you to make you think that the committee of control did not look deep enough into the affairs of the department. I should have thought they ought to do so, and that it was desirable that they should.

55,323. (Mr. Coward.) I think they themselves said that complaints or questions very rarely came before them?—I do not know that I have thought very much about it. It never occurred to me to have an officer of that kind. I should feel a little afraid that too much power might get into the hands of such a man, and I am not at all sure that, if there was such a man existing, it would diminish discontent, if there be any dis-

content. I think, on the whole, people would rather be managed as to their discipline, and as to their promotion, exchanges, and so on, by the highest person possible; I think men do not like to think that their fortunes are in the hands of somebody very little removed from themselves.

55,324. (Mr. Boutwood.) Do you attach very much importance to what is usually called discipline?—Yes, I think I do. I am not at all sure that I understand exactly what you mean.

55,325. I mean the discipline that has been mentioned, I do not say in this part of the inquiry, but certainly in the earlier part?—Do you mean somebody looking out to see whether men are doing their work or not?

55,326. In the earlier part of our inquiry the witnesses certainly spoke as if the efficiency of the office, and the salvation of men almost, depended on the fact that there was someone standing at men's heels to see that they did not do this or that all the day long?—No, I do not attach much importance to that; in fact, I think it is a bad idea. But I think it is important that there should be somebody who knows the office and knows what is going on.

55,327. (Chairman.) In certain branches there is a single officer who is responsible under a committee for the detailed arrangements; for instance, the Scrivenery Department. The Scrivenery Department is managed by a committee, but there is the superintendent of the Scrivenery Department who is responsible to the committee, and carries out the detailed arrangements under the committee. Similarly, the subordinate staff—the messengers and so on—are under the control of a superintendent, under the direction, ultimately, of the committee of control, I presume?—No; the superintendent is responsible to nobody but the Lord Chancellor. The committee of control have nothing to do with that. That army of men goes over the whole building.

55,328. The authority which is ultimately responsible has an intermediate officer who is responsible for the detail. It is true that in the case of the messenger staff the ultimate authority is further removed from the detail than in the case of the committee of control?—I think your proposal would be rather—taking the instance of the superintendent—as if he required somebody below him to be moving about and knowing what was going on amongst his people.

55,329. Perhaps the Scrivenery Department is a better illustration: There you have a committee of management and an executive officer. The committee of management no doubt could manage the Scrivenery Department just as the committee of control manages the Central Office, but they would find it much more difficult, I imagine, without a superintendent to deal with the details?—I think the main business of the superintendent of the Scrivenery Department is to manage the money affairs—the way in which they are paid for their work, and the way their earnings are pooled and distributed, and so on. That is his main business—giving out the work to them and so forth.

55,330. Does not he act generally as the executive officer of the Scrivenery Committee?—He is the head of that office.

55,331. The question arises in an even more marked form, I think, in the Chancery chambers where there is no committee of control and where there is no general authority, so far as I understand, for dealing with the whole staff?—There is nothing in Chancery chambers called by the name of "Committee of Control," but there is a committee of the masters just now, to whom the Lord Chancellor refers for advice and assistance with regard to points connected with the Chancery chambers, as to discipline, the work, and so on. He would refer to them if there was any question of not filling up a vacancy, on the ground that there is sufficient staff without doing so.

55,332. (Mr. Coward.) But he would never have referred to him such questions as the organisation of the office and the mode in which the work is done. That would not come before him?—I think they are the people to whom the question would first of all be referred if there was any question raised about the organisation.

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55,333. But it would be a question that would be so unlikely to be raised outside?—Yes, I think so.

55,334. (*Chairman.*) Owing to the system of watertight compartments, no master knows anything about the clerks who are working in another master's office?—He has not much opportunity. The idea of constituting a committee was that they should inform themselves, and that it should be recognised amongst their colleagues that they were entitled to inquire as to what was going on in all the chambers.

55,335. Has that committee existed for long?—No, it has only existed for two or three years.

55,336. On the whole, your opinion is against the creation of any office of that kind which has been suggested?—I do not at present see the advantage of it.

55,337. Turning to the Lunacy departments, in Master Theobald's evidence suggestions were made as to a change in the present arrangements for the visitors. He suggested that the legal visitor was unnecessary, and that if an extensive reform were to be introduced it would be desirable to substitute for the present system of visitors working from the centre a larger number of local visitors. In that way he thought greater efficiency would be obtained, and also, though he did not suggest that the present system was inefficient in any way, there would be very great economy in the amount of travelling that the visitors have to perform. Are you prepared to express an opinion on that point?—I cannot help thinking that Master Theobald's remarks were on the supposition that the Lord Chancellor's visitors would be amalgamated with the Commissioners in Lunacy, because I cannot see how it could be worked if you leave the office as it is now, but Parliament deliberately, two or three years ago, against my advice, thought fit to leave things as they are now.

55,338. Are you prepared to express an opinion as regards Master Theobald's suggestion of localised visitors?—I think that Master Theobald made proposals of that kind when it was intended to amalgamate the Chancery establishment with the Commissioners in Lunacy, and I remember thinking at the time that there was a great deal to be said for it; but it does not seem to me that it would apply to the present limited state of things as it remains, that is to say, as applied to a limited number of propertied lunatics, who come within the Lord Chancellor's jurisdiction, and who are visited by the three visitors spoken of—two medical and one legal visitor. To begin with, I should have thought a system of local visitors probably would be very expensive, because, although it is true you would have a different class of visitors who would only perhaps have a fee for the occasion or some small retaining fee, there would be a very large number of them to cover the whole face of the country, and even though each would only have a small amount of money, I should think it would probably amount to a great deal more than the salaries of the present three gentlemen. Then it seems to me there would be many disadvantages. I think it is very important that the visitors in these cases, as long as you keep up the principle of it, should be men of very high rank and position, such as they are just now. Sir James Crichton-Browne and Dr. Nicolson are men of the very highest possible attainments in their own department—there is no question about that. I think that it is a very good thing that men of that calibre should visit and report on this class of persons. I should have thought that you would not get the same kind of valuable information and that you would not have the same confidence where you just call in some local man to go and call at the house (say) of the neighbouring squire who was a lunatic. I do not think you would get the same kind of authority, and you would lose also the uniformity of view which I think is very important. I have, of course, had a very great deal to do with this personally, because the special reports come in to the Lord Chancellor every month from these visitors, and it is my duty to go through them and to call the Lord Chancellor's attention to anything that is novel or special. It makes an enormous difference whether you know the man who is making this class of reports, which are of a very intimate and confidential kind. I can imagine the immense difference it would make to anybody who had to deal with them if he knew

the man who made the reports and how much reliance could be placed on his observations and remarks. As long as this system of having propertied lunatics of a certain selected class remains—as to which I think there is a great deal to be said on the other side—and as Parliament for some considerable period of time has left this alone and the question will not be opened again, I suppose, for many years, I think the present system is a good one; I do not think what Master Theobald suggests would be at all an improvement.

55,339. The question also came up whether the visitors ought not to be in subordination to or at any rate in more organic relation with the masters. At present they are responsible solely to the Lord Chancellor; they report to him, and, although the masters in Lunacy can make requisitions to the visitors to visit particular places, they have no authority over them. The question is whether as a matter of organisation it would not be advantageous to make the visitors part of the masters' office?—I have no doubt you are aware that they form one Board for the purpose of considering the reports that are to be made to the Lord Chancellor. The reports of the visitors are made after a meeting at which the masters attend. The masters themselves are members of the Board, and they take part in directing that the reports should be sent to the Lord Chancellor.

55,340. We were told that the visitors' reports to the Lord Chancellor were not seen by the masters at all unless they specially asked for one?—That may be the way that it works, but the report is sent to the Lord Chancellor by the secretary in the name of the Board, stating that there was present at the Board so and so, and so and so, and so and so, which includes the masters.

55,341. We were told that the Board did no business at all, but that it was simply a meeting for conversation?—I dare say you may describe what they do as conversation. What it purports to be, and what it certainly is on occasion, is that the visitor reads his report to the Board, and the Board, on hearing the report and after making any observations that they think fit, direct that the report is to be sent to the Lord Chancellor. That is stated on the face of every report.

55,342. Then is it the case that all the reports from the visitors are, formally at any rate, approved by the Board and forwarded in the name of the Board?—Certainly, unquestionably.

55,343. So that theoretically, at any rate, all the reports come before the Board before they go to the Lord Chancellor?—Yes, I believe they do actually and physically. It is only after they have been before the Board that they go in the name of the Board to the Lord Chancellor—not in the name of the visitors. The report is signed by the particular visitor who has in fact visited the patient and made a report, but the report is forwarded to the Lord Chancellor in the name of the Board.

55,344. (*Sir Donald MacAlister.*) How often does the Board meet?—I suppose they meet every month for the purpose of forwarding these reports.

55,345. Then Master Theobald cannot have meant that some particular report which he wanted could not come before him for months, although he wanted it at the moment?—No, I do not think he can have meant that.

55,346. (*Chairman.*) Apart from any question of a large reform, including some amalgamation of the Chancery lunatic system with the Board of Control, you do not think any change in the position of the visitors is desirable?—No, I think not. The jurisdiction over lunatics, so found by inquisition, having been left by Parliament as it is, I do not think there is any opportunity for large reform or any great change. The whole thing was so fully before Parliament at the time that I think those who are interested in it must have been fully aware of what they were doing or leaving undone.

55,347. (*Miss Haldane.*) Would you agree with the evidence we had from Lord Loreburn about it being desirable that there should be a woman visitor?—The difficulty about that is the small number of visitors that we have just now. There are two medical visitors and one legal visitor, and they certainly are at least enough, and there is a little difficulty in adding to the number.

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But I do think that a woman visitor would be a good thing. I have often seen cases where I have thought that, excellent though the visitors are, they were cases where a woman visitor would have been very desirable, and on the whole would have been more appropriate to the occasion.

55,348. In fact, if the legal profession were open to women at present, one of the legal members might be a woman?—That, of course, might be. It would be a legal visitor, and you would not ask questions as to what its sex might be.

55,349. (*Chairman.*) Is it necessary to have a legal visitor at all? That question was also raised?—I think a lay visitor as opposed to a medical visitor is a great advantage. I think the sort of idea in the present system is that out of three visits one is by a layman. They take turns or circuits, I think they call them, with the result, at least in theory, and to a great extent in practice, that every third visit is by a layman. I do not think it is very important that the layman should be a lawyer, but I think there is an advantage in his being a layman. There are questions that arise with reference to the property, and questions of a general kind that are not of a medical kind, on which I think it is an advantage that a layman should see the patients and be in a position to discuss those questions at the Board, if discussion arose. When the whole of this subject was recently discussed in Parliament with reference to the Lunacy Commission (what is now called the Board of Control) they clearly recognised that it was advantageous to have legal people and lay people, and not to have the whole administration in the hands of the medical profession.

55,350. There is one question concerning the organisation of the Central Office, about which I should like to ask you. Master Kershaw suggested in his evidence that it would be desirable to separate the Crown Office and the Associates Department from the rest of the Central Office, and also that the registrar of the Court of Criminal Appeal should be a separate officer. He was of opinion that the work in the Crown Office and the Associates Department was so different from the work in the other departments of the Central Office that it was not convenient to transfer men freely between those departments and the other departments, and that it would be more satisfactory to organise them on a separate basis and make them a separate office. What is your opinion on that point?—My opinion is very strongly against that. I think that the taking out of those departments from the Central Office would be a retrograde movement; it would be going back on a principle which has been worked out under the Officers Act, 1879. I think it would be a great pity that there should be diminished opportunities of transferring clerks, which is one of the things mentioned. His office, at this moment, is almost entirely manned by people who have been transferred. It has made it a very good office, as I dare say he told you, and it has been greatly to the advantage of the men who are transferred. We have actually transferred some men recently back from there. We have been setting up a new department, and we transferred one or two of those men into the new department who had shown themselves good men—we were creating a place a little bit better, and these men got the advantage of it. I should have thought it a very great pity if they had been precluded from transfer by any new artificial separation. I think you said something about the separation of the registrar of the Court of Criminal Appeal. I think that would be the greatest possible pity, as illustrated by the position of Mr. Kershaw himself. Mr. Kershaw was appointed to the office of registrar of the Court of Criminal Appeal when that Court was constituted a few years ago. It was a comparatively small office in itself then. Mr. Kershaw did very good work there, and, when Sir James Mellor retired from the head of the Crown Office in the King's Bench Division, the then Lord Chief Justice arranged with the Lord Chancellor that Mr. Kershaw should be made the master of the Crown Office. One of the reasons for it was that there is a great deal of similarity and connection between Crown Office work—that is, appeals from the magistrates and so forth, to what is called the Crown Court—and the Criminal

Jurisdiction under the Court of Criminal Appeal Act, and it was thought a very good thing to have a man in the position of the master of the Crown Office as head of the whole business, with such assistance underneath him and under his direction as might be necessary; so that we have, dealing immediately with the business of the magistrature of the Court of Criminal Appeal, an assistant master, who is Mr. Lawrance, a son of the late judge. I think that is a very much better arrangement. I am entirely opposed to Mr. Kershaw's suggestion.

55,351. Mr. Kershaw's suggestion was that the work of the registrar of the Court of Criminal Appeal is very heavy, often very urgent, and much of it has to be performed by himself personally; and he suggested that there is really more work than one man can properly perform. If that is the case, would you meet it by giving him further assistance rather than by separating the offices?—I do not think he does require further assistance. I have not studied his evidence, but my own belief at this moment is that the business of the Crown Office, which also comprises the Associates Department and the business of the registrar of the Court of Criminal Appeal, is amply provided for by the present arrangements, where you have the master of the Crown Office with three assistant masters. One assistant master, Mr. Lawrance, devotes himself to the Criminal Appeal work, Mr. Lawford devotes himself to the Associates work, and Mr. Coleridge is in the Crown Office part of the department.

55,352. There is one point on which I should like to ask you to clear up an obscurity with reference to the Supreme Court of Judicature (Officers) Act, 1879. In that Act there are two sections which apply to questions of pensions for officers of the Supreme Court; Section 20 lays down that an officer of the Supreme Court appointed after the commencement of this Act shall not be entitled to a pension unless he has a Civil Service certificate, and goes on to say: "the Lord Chancellor may from time to time with the concurrence of the Treasury declare that this section shall not apply to any office or class of offices specified in the Order." There is also Section 17, which gives the Lord Chancellor power to declare that a certain office requires special and professional qualifications, and that renders it lawful for the Treasury to add a certain number of years to service for the purposes of pension. Have both those sections been applied in practice?—Certainly.

55,353. Have orders been made under both those sections?—Certainly.

55,354. Do they apply to different classes of cases or to the same class?—The effect of Section 20 is that masters and registrars and all that class of people who are appointed late in life and who have professional qualifications and are not subjected to any examination and so forth, do not have Civil Service certificates. When they come to apply for a pension on retirement—for instance, I shall have to do it in the course of a few days—they have to state, under a particular clause in the application which says, "Give the date of your Civil Service certificate," "I have not got one because I am exempt under Section 20."

55,355. Then numerous orders have been made under that section?—I believe they have been made. I remember certain orders. When a new office has been created of this class we always have to make an order, with the consent of the Treasury, under Section 20.

55,356. (*Mr. Graham Wallas.*) Could we have a list of offices affected by these orders?—I should think you could have a list of who they are, roughly. The masters and registrars are a very distinct class in our organisation—it is the upper class to whom the orders apply.

55,357. (*Chairman.*) Orders have also been made under Section 17?—Yes, Section 17 is, almost verbatim, Section 4 of the Superannuation Act, is it not? When all this class of officers were brought as nearly as could be at the time into the Civil Service, it was almost necessary that Section 17 should be put in force.

55,358. When an order has been made under Section 20, exempting the holder of an office from the necessity of having a Civil Service certificate, has an order also been made usually under Section 17?—Not invariably, but usually.

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55,359. The class of officers exempted under Section 20 would usually be officers to which the professional qualification clause would also apply?—One would have answered that simply, yes, a few years ago; but, of course, in recent times there has been an objection to adding years. The subject was dealt with by the Royal Commission; we had it before us and we recommended the abolition of Clause 4, and I think Clause 4 has been abolished, but I do not think that anything which has been done touches Clause 17 of the Judicature Act as far as I know. I should expect, if I approached the Treasury with regard to some office under Section 17, to be told that the Treasury intended to act upon the analogy of the repeal of Section 4. Of course, all the masters and registrars have an addition of years under the old practice.

55,360. In your former evidence you expressed an opinion as to the fixing of an age for retirement?—Yes.

55,361. We have had some further evidence on that point, and I think I may say that, generally speaking, though some witnesses preferred to have no limit of age at all, the majority of the witnesses accepted the view that the Civil Service limits should apply to the clerical offices generally, and that the age of 70 should apply to offices, such as those of masters and registrars, of a judicial or semi-judicial character. Have you anything to add to the opinions you have already expressed on that point?—The only thing I have to add is, that I feel so strongly about it that I am resigning my own office on the ground that I shall be 70 in a few days.

55,362. (*Mr. Matheson.*) A question about the grading of clerks. Is it not rather bad economy to have in an office like the Probate Registry, for instance, something like 103 clerks and to use for them entirely a class of men who have some professional experience, and who really, so far as one can gather, are, many of them, rather above the work which occupies a great deal of their time?—I think there is a disadvantage in that. It is probably one of the chief disadvantages that arises under our present system, which has its disadvantages, although on the whole I think it is the best system.

55,363. I find a difficulty in the numbers. Taking the Probate Registry, there are a total of 103 clerks, of whom 64 are third class clerks. Many of those men in the third class are really men of rather high qualifications who come in in the hope that ultimately they may rise to the first class; but the very fact that the third class occupies so large a proportion of the whole must mean, I think, that for a very considerable time they are doing inferior work, and I cannot help thinking that it tends to produce both slackness and discontent. I should like to know whether you think that can be met in any way. So far, it seems to me the evidence is rather in favour—certainly in some offices—of making a more or less distinct class below?—I thought, perhaps, you were coming to that. It does look to me—supposing that is the case—that with those 64 men of the third class in the Probate Registry, it might be that you should take a certain proportion of that number and make it into a fourth class, or give it some other name, and not allow any work of quite so routine a nature as you are referring to to appertain to any of the clerks who are appointed with such qualifications as enable them to look forward to better things.

55,364. (*Sir John Kempe.*) I rather gather that you think the proposal for a selection committee is more suitable for the higher grades of official life than for first entrants?—Yes, I think so.

55,365. In fact, you are rather inclined to the open competition principle for these lower posts?—Yes.

55,366. I suppose, too, the fact that there are uniform scales of pay rather points to a uniform method of appointment and not to the appointment by different people, which results, of course, in different classes of men being in the Service. A uniform scale would rather suggest a more uniform system of appointment than can be got by individual appointments?—I am not sure that I quite follow that, but I do not see, as I said before, any difficulty in introducing open competition for the lowest grade of our clerks.

55,367. At any rate, do you not think that a system of personal selection rather results in giving men a

feeling of a personal and individual claim rather than as being members of one big body. Do not you think it makes it more difficult on questions of promotion by selection and retirement on a limit of age if a man is appointed for individual reasons, than would be the case in a body of men who got in by open competition. Is not that one of the reasons of the difficulty of promotion by selection?—Do you mean that a man who is appointed by a particular authority would expect that authority to look after him and promote him?

55,368. Something of that feeling?—I should not have thought there was much in that; but I think that is one of the objections that appertains to the system of simple patronage. I agree that it is one of the elements.

55,369. If he gets in by open competition he is in a general service, and he feels he has got to conform to general rules, and does not have any claim to personal selection or promotion?—I think there is a great deal of truth in that.

55,370. If any alterations are made, would there be any difficulty in applying a new system in consequence of any rights; that is to say, would there be a right of promotion by seniority or a right of staying on after a fixed age. Would you have to compensate men for that, do you think?—I do not think so. I do not think our clerks have got any title of that kind. I think there is no doubt that the Lord Chancellor and the Treasury, if a man had been appointed without any limit of age being then named were turned out at a limit of age afterwards introduced, would take into consideration that question when they were arranging about his superannuation; but I do not think he has any legal claim under our system.

55,371. You think you could give up the system of promotion by seniority at once and go to selection?—Certainly. There is no difficulty with regard to seniority. No man has any claim to promotion by seniority in any of our departments.

55,372. You spoke of law departments being supported solely by fees. That has reference only to the personnel, because, looking at the Estimates, I see the total cost of the Supreme Court, taking all the buildings, stationery, and everything, is far beyond the fees collected?—I do not think I am prepared to say that at this moment. There are certain things, of course, like the salaries of the judges and so on, that are on the Consolidated Fund, and which, in principle, are supposed to be given to the suitor for nothing, but the suitor is supposed to pay for his own proceedings.

55,373. The cost of the vote for the Supreme Court is covered by the gross receipts, but not more than that. Everything else, the buildings, the stationery, and the judges are provided for separately and cost as much again?—The matter of the buildings is rather a complicated one. It is a very large question that is embodied, I think, in an Act of 1865, which was called the Courts of Justice Buildings Act, when there was a great financial operation by Mr. Gladstone, who took possession of the suitors' money and built the Law Courts. It was a very fine operation and a very long story, which I will not enter into. I think, on the whole, the suitor did not get the best of the arrangement which was then made, and that you will find that the suitor does indeed pay for everything that he ought to pay for. I do not think the suitor is a charge on the country in any way, except as to those things which, on principle, going back to Magna Charta, he ought to have for nothing. There is a scale of fees for proceedings in the Supreme Court that is laid down by the Lord Chancellor, with the concurrence of three other judges of the Supreme Court and the Treasury, to cover so much, at any rate, of the cost of the administration of justice as is considered proper in point of principle to fall upon the suitor and not to be paid for by the country. So between those two authorities—the Lord Chancellor, who is supposed to represent the suitor, and the Treasury, which is supposed to represent the public purse and to represent the knowledge of finance—there is an agreement that the scale of fees shall be so arranged

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as to raise money enough to cover all that class of expenditure.

55,374. (*Mr. Coward.*) The scale of fees applies to all cases, whether small or great; it is the same scale. You pay, for instance, 2*l.* to enter a case for trial whether you have 20*l.* involved or 200,000*l.*?—Yes.

55,375. (*Sir John Kempe.*) I appreciate your point that the buildings are provided by the suitor. I understand that the fees would cover the ordinary expenses?—Yes.

55,376. The Land Registry fees cover still more—the buildings and all?—I suppose if there was a deficit upon our account the Treasury would call upon the Lord Chancellor to revise and raise his scale of fees.

55,377. Might not you get it out of the Building Fund?—I do not say the Lord Chancellor would be compelled by statute to provide a balance. It was an agreement made in 1884.

55,378. I suppose you would fall back on the suitors' fund; that is to say, the Treasury, having taken the suitors' funds, would have to pay the difference so far as the buildings are concerned?—Yes, I think they would.

55,379. (*Miss Haldane.*) As I gather, you see no objection to men coming in in the lower clerical class by open competition. I want to know whether you would see any objection to also admitting to that competition, women?—You know that my views in favour of the employment of women are very strong, and I really see no objection. There is the objection just now of habit, and there is a sort of objection which, I think, I mentioned on a former occasion, that we have said that the class from whom these men are best recruited is a class that contains no women at present, so that until you get women employed as clerks in solicitors' offices, and until you get them admitted into the legal profession, it is rather difficult to see how they could come in, or, at least, how they would be likely to come into our offices.

55,380. You think the first step should be to have them admitted to the legal profession?—I am inclined to think so; but still I am so strongly in favour of the employment of women that I do not think I would wait for that if I was kept too long.

55,381. In fact, you think they might apply their qualifications otherwise, supposing there was a delay in that desirable result?—Yes.

55,382. We have a good deal of evidence about, for instance, the Scrivenery Department, and it struck some of us that a great deal of that work might very usefully be done by women; in fact, one has sometimes thought that a department like that might be almost entirely a women's department, like some of the Post Office departments?—I think so. I have had a good deal to do with the Office of the Public Trustee, and we recognise them there to the very full.

55,383. There, I believe, since we had evidence about it, a great many more places have been filled by women?—Yes. I am not quite sure whether they are employing women just now in the Central Scrivenery Department of the Law Courts or not.

55,384. (*Chairman.*) I think they have one woman typist?—There is no question that they might have them. I do not understand why they have not.

55,385. (*Miss Haldane.*) Also, I think, from the evidence we have heard, some of us have been inclined to think that typewriting might be used a great deal more than it is used, and that that would be an additional reason for employing women?—I am not very sure about that. I think I would rather not express an opinion as to whether typewriting could be much used in our legal offices at the Royal Courts of Justice. I have not really considered it very much. I should be surprised, of course, to be told that it could not be done, because it is done universally everywhere now; but I think it is quite possible that you might find, when you ask those who are concerned with the actual work, that they were not very willing to accept the suggestion.

55,386. Still you would not make the admission of women dependent upon the use of typewriting?—No.

55,387. You spoke quite strongly on the subject of the admission of women to various departments when

you last gave evidence. Is there anything you would like to say in further application of that?—No, I do not think so. You may recollect that I went very far in that direction.

55,388. You went very far indeed, and you adhere to your views on that point?—I adhere to them now.

55,389. (*Sir Donald MacAlister.*) Supposing we decided that it was desirable to establish a lower grade clerical class, purely and simply clerical, and a higher grade which might aspire to higher posts, how would you propose to recruit the higher class apart from promotions?—I suppose that they would, under the proposals that are at present under consideration by the Commission, be appointed by a sort of Appointment Board.

55,390. And not by competition?—I should rather doubt whether you could use competition for that higher class.

55,391. (*Mr. Boutwood.*) It would be wholly professional, would it not?—The higher class would be almost entirely professional, I think, and I do not think you could make them subject to open competition. But I do not feel very strongly upon the subject. I have not really very fully considered it I am afraid.

55,392. (*Sir Donald MacAlister.*) I am anxious just to know whether you think the higher class should be purely professional, because, if so, I was going to ask you why?—Because I think if you had the kind of division of work that that implies, all, or almost all, of the work would be legal work in the professional sense; it would be entirely professional work. I think it would have to be a man who was actually called to the Bar, or actually admitted as a solicitor, or at any rate had gone completely through both the intellectual and the practical training for one or other of those branches of the profession.

55,393. Supposing these offices were open only to barristers or admitted solicitors, would there be any difficulty in having a competitive examination. The age is not prohibitive, is it?—I think we settled here when we discussed this question before that open competition was not applicable to people above a certain age—27, I think, was the age mentioned.

55,394. But you are not contemplating that age for the higher grade, are you?—I think it would be very near that.

55,395. Then your answer would be, as I understand it, that the higher grade would be recruited at an age something like 27, that professional qualifications would be required, and that open competition would therefore not be applicable?—It looks like that, but I do not wish to feel too much bound by it, because this is not a scheme of mine, you understand. It is only suggested to me here as to what I think about it. I do not feel certain as to what would be the age or what could be the difficulties of open competition. Though the way that you have stated it seems to me about as good as one could wish to hear it stated, yet I should not like to be completely bound as to that being the system that would be carried out, and as to whether there might not be another system whereby you could bring in open competition. After what has taken place in this Commission before, I should not like to say anything that kept open competition out of the legal departments where it can properly be brought in.

55,396. (*Sir John Kempe.*) What do you mean by the higher grades—the masters or the registrars?—No, I was meaning the first and second class clerks.

55,397. (*Mr. Coward.*) There is one question that the Chairman did not refer to, and that is the possible amalgamation of the offices of the masters and registrars. I do not know whether you have considered that. At present masters make orders in chambers, those orders go to the registrars, and we find that it takes probably three weeks to get an order perfected. It has been suggested that there has been an immense waste of time and waste of everything, and that it might be possible to arrange a scheme by which the masters should complete and perfect the orders that are made by them. I do not know whether you have had that within your mind at all?—I have always thought for years that it ought to be done. I rather thought that I had committed myself to a recommendation of that point in one

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of my papers. I am still of the same opinion. I have thought it was feasible and desirable.

55,398. A very great difficulty that I should like to see the answer to is, how these offices can be conducted, so that there shall be someone who shall have control and see what is done, so that there shall be no wastage. Personally, I have not been able to find out what the answer to that is. I do not know whether you could help me?—I do not know whether you have amongst the documents before you the Report of the Legal Offices Committee of 1874. I think Lord Bramwell was a member of that committee or commission, and he made a recommendation that there should be an officer appointed, whom he proposed to be an officer with a higher salary than anybody in the Royal Courts of Justice; he described him as a somewhat peripatetic person who should be always moving about and keeping himself *au fait* with the whole of the Royal Courts of Justice. Such a person never has been appointed, and I do not think I should like to occupy the office myself if it were offered to me.

55,399. Nor do you think it would be effective?—No, I do not think it would be effective.

55,400. I do not myself think that that would do. But it is extremely difficult to see how you could have a control which should be effective?—No; I think with the class of men that you appoint as masters, registrars, and so forth, you ought to be able to have confidence that they would themselves work up to the full measure, and that they would see that their subordinates did the same.

55,401. Take a master, for instance: the master has certain work to perform; he has summonses brought before him, and applications made to him. As far as I can make out, he does not exercise control over those who are beneath him. When we have had before us clerks in these offices they have been unable to tell us what they do in the day; time after time we have asked them what they do and what work they have to perform. There should be somebody there who should be able to control, and be able to tell exactly what every clerk does every day. I do not see why there should be any great difference between the work that should be done by the master and that which I, personally, or anybody in my position, has to do; it seems to me very much the same. I could tell what people do. But we do not seem to have the same experience and explanation afforded by those in position here. The master comes and does his work, and out he goes. It seems to me a difficulty to get somebody who shall control the offices, and see that there are sufficient men to do the work, and not too many, so that there is no overlapping. There was one gentleman, a clerk, who gave evidence yesterday, who said, "we help each other." We know what helping each other means. I do not know whether you can give us any light and leading upon this, but I should be very grateful to you if you could?—I do not know that I can. I feel rather inclined to appeal to the committee of control, if you appoint a committee of control who are supposed to do what they do now—make a report at the end of every year to the Lord Chancellor. I received the report for last year from the Central Office about three days ago, signed by the senior master on behalf of the committee of control, and giving a report as to what was the state of the office. I should have said that those who made themselves responsible for a report of that kind ought to be able to give an answer to the sort of question that you are putting—I do not say an answer in detail; you do not expect them to be walking about all day long to see who is doing anything, but to be able to give a sound and satisfactory answer to the question, "what do they do in room so-and-so?"

55,402. I should, myself, like to consider it from this kind of standpoint: Take a solicitor's office; you may have a great many clerks—not so many as in the legal departments, who come to just about 208—but there are a great many solicitor's offices with a fourth of that number. In my place, if we wanted some Chancery work done, I and my partners would equally send it to the man who has that under his control. We do not have a divided office so that each man has his own compartment, as it were. That is rather what I think

is done to a considerable extent in these offices—in the Chancery offices, for instance. I cannot think that can be right. Perhaps it is not a question that I ought to propound to you?—I have a sort of general feeling that I should like to be able to answer any question that is put to me, but I do not feel prepared at the moment to make a statement in detail about either what is the exact practice amongst the clerks in the office, or, indeed, what it ought to be. I could quite understand this Commission saying that they were not entirely satisfied with the account that was given to them; that they had views as to what were the lines upon which the chambers ought to be worked for the future; and that they recommended that that should be carefully looked into. I could quite understand your doing that, but it will not be my function, I regret to say, to carry out those views. If I were remaining in office, I should, of course, upon a suggestion of that sort, proceed to look into it in detail, but I do not think I could give you, or could be expected to give you, a detailed answer to your question just now.

55,403. There is another thing, that is, that these people in these offices have very easy hours and very long vacations. They leave each day at 4 o'clock. The kind of suggestion they make with regard to the hours is this: They say those are very easy hours, but the solicitors do not want to be there beyond that time, having letters to write, and so on—which is perfectly true; but it is a matter of surprise to me that there should not be, if the work is properly done, a great deal of work to do after those hours are ended. I do not know whether you have considered that?—I have considered it often. I entirely agree with you.

55,404. Similarly, with regard to the vacations, the same thing arises. People ought to have proper vacations?—I have never concealed the opinion that I consider the Long Vacation ridiculous.

55,405. The Lord Chancellor says that there should be none?—I have always been of that opinion.

55,406. The courts should be continually open?—So I have always thought.

55,407. (*Mr. Graham Wallas.*) You told us that part of the effect of the Judicature Acts was the transference of the control of the various legal departments, which had hitherto been largely independent, to the single control of the Lord Chancellor. Has that process gone on as completely in the case of the various probate offices as in the case of the other legal departments. Is the control of the Lord Chancellor over the Probate Registry of the same character as his control over the other legal departments?—No, certainly not.

55,408. Could you indicate shortly the main points of difference between the two measures of control?—It is very short, because, although the Lord Chancellor is responsible for the constitution of the office—I do not know whether the order was before you which was made in 1882 under which the Lord Chancellor, the President of the Probate Division, and the Treasury constituted the office with so many first, so many second, and so many third class clerks like the other departments. All that goes on there is under the direct control, without interference from the Lord Chancellor, of the President of the Probate Division.

55,409. Are the departments under the President of the Probate Division the only exceptions of that kind in the London legal departments. Are all the others controlled by the Lord Chancellor?—I should say it is the only exception, including the Admiralty Registry—all the offices of that Division.

55,410. Do you know any reason except the historical reason why that exception should in fact be made?—I think the general principle of the Judicature Acts is that the President of the Division should rule in that Division, and manage it. The Lord Chancellor is President of the Chancery Division. Besides being President of the whole of the Supreme Court, he is also in that respect a member of the High Court of Justice and he is President of the Chancery Division. That makes him manager of the Chancery Division. Then the Common Law Divisions, which existed when that general enactment was made, were amalgamated under that later Act of 1879, by which certain offices were combined together into the Central Office, and the

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control of the Central Office was given, in the words of the statute, to the masters who were reconstituted by that Act. The supreme control over them I do not think is very clear upon the Act of Parliament. I have always thought that it was open to the contention, if they had chosen to make it, of the Lord Chief Justice and the Master of the Rolls that they were joint authorities over the office with the Lord Chancellor; but as a matter of fact it has worked otherwise, and there being no one person who can be called, as President, the authority over the Central Office, the Lord Chancellor has acted as that authority.

55,411. So that, in fact, the Lord Chancellor is now responsible for the administration not only of the Chancery departments but of the Common Law departments?—Practically, yes.

55,412. Putting aside that very interesting historical reason, do you see any reason in the public interest why the process which has in fact been applied to the Common Law departments should not be applied to the department under the presidency of the Probate Judge?—I think the Probate, Divorce, and Admiralty are so much apart from the ordinary legal work that the President of the Probate Division would always require to have, and properly would have, a very important voice in the working of that department, although, according to the principle of the Judicature Acts, the Chancellor ought to be finally responsible, and on the principle that he is the Minister, and the only Minister, responsible to Parliament in the matter, I think it would be desirable that his authority in the matter should be more definitely expressed than it is at present. That is my own opinion, which is given without any suggestion that the Probate Office has not been, ever since I can recollect, extremely well worked. I do not imagine that there would have been any difference if the Lord Chancellor had interfered unless I am more ignorant of the facts than I believe myself to be.

55,413. Would you say that if the Lord Chancellor were made definitely and clearly responsible to Parliament for the administration of all these legal departments it would be necessary to follow the analogy of other Government departments and provide him with a sufficient administrative department of his own through which he could exercise his control?—I can conceive my successor having a view of that kind. It happens that things have grown up during my time, whether it be for good or for bad, so much under my control that I do not feel as if, looking back, I wanted to say that there need be anything different.

55,414. But I think you agreed, for one thing, when we were talking about this before, that it would be very desirable that the Lord Chancellor should have someone in the nature of a Political Under Secretary of State to assist him in Parliament?—That I have a very strong opinion upon, as I ventured to state before.

55,415. Looking at the actual department of the Lord Chancellor's officers, there is yourself and there is Mr. Liddell—who are obviously high officers—then there are, excluding messengers, three gentlemen with salaries between 200*l.* and 450*l.*, and two gentlemen with salaries below 200*l.*, and no one else. Do you think that if one were building up an important office to control the administration of the whole of the judicial services again that would be exactly the office one would build up?—I doubt whether it would be.

55,416. You put forward to us the principle that there should be a pyramid. There is no sign of a pyramid in that office?—No, I do not think there is. There is only one pyramid.

55,417. It is not clear, for instance, that here you are training your successor?—No, that is certain.

55,418. You are not training your successor?—No.

55,419. Do not you think it would be desirable to reconsider the general structure of the Lord Chancellor's personal office?—I must say I think it is very difficult for me to answer that.

55,420. No one can answer it so well because no one has so long an experience of its difficulties and the way in which those difficulties can be overcome by personal zeal. In each of the legal departments there is some-

one who is either generally described as senior master or senior registrar?—Yes.

55,421. And he is generally given a somewhat larger salary, and has a kind of responsibility for the administration of the office?—That is so.

55,422. Would you agree first that that kind of responsibility is at present somewhat ill-defined?—It certainly is ill-defined.

55,423. Would you agree also that in principle there has sprung up the habit of using the word "senior" to mean "age." The senior registrar or the senior master means the master or registrar who has held his office longest?—That is who he is, in fact. The master or registrar becomes senior master or senior registrar because he has been the one longest there.

55,424. Is that the case by statute? To change that would one have to change the statute?—As far as the statute is concerned the senior master only applies to the Central Office on what is sometimes called the Common Law side. It has been a recent creation which has nothing to do with the statute in the department of the Chancery chambers. I think the Bankruptcy registrar is called the senior registrar in the statute.

55,425. Do you think it would be an advantage to have one of the high officers in each of those departments made responsible for the administration more definitely than the senior officer is now, and that he should be appointed by the Lord Chancellor for other reasons than seniority solely?—I think there would be an advantage, but I do not think it very likely that it could be carried out. The masters and registrars are all on an equality. The senior is only *primus inter pares*, and, elsewhere than in the Central Office and perhaps the Bankruptcy Office, it has only been as a matter of convenience that the correspondence with reference to the office should be carried on with some one person.

55,426. But, putting aside the difficulties of tradition in the way, if such an arrangement could be made, do you think it would be a good arrangement?—I do.

55,427. I want to read you a very few words from the evidence of Master Fox. He was asked, "Is the discipline of the office also in compartments?" and he answered, "Yes, certainly. Each master is responsible for the discipline in his own department." He then explained that a group of three masters keeps a time-book; but when asked, "You have no means of knowing what the custom with regard to time-books may be in the chambers of any other master except those 'three'?" he answered, "No, I do not know." Then he stated that clerks were allowed, he believed, something like 20 minutes' grace; that is to say, they may enter themselves as being punctually there if they are not more than 20 minutes late; but he said if there was any difference in that respect the master concerned would not know of such a difference. He then stated that there is no means of knowing whether any uniformity of practice exists as to the period during which a clerk may be away for sickness without your attention being brought to it; he said, the master responsible would communicate with Sir Kenneth Muir Mackenzie, but when he was asked whether any steps were taken to secure uniformity of practice in that respect, he answered, "No." From the point of administration, do you think that that is wholly satisfactory?—No, I do not think it is.

55,428. Do you think it would be desirable to secure uniformity in such elementary matters as what the meaning of an entry in a book stating that you are there by 10 o'clock is, or how long a man could be absent through sickness without the attention of the Lord Chancellor being called to it?—Yes, I should have thought there was practical uniformity throughout the chambers of the Chancery Division in that respect. But if Master Fox says otherwise, he knows better than I do, and he may be entirely relied upon as to anything he says.

55,429. When I asked him whether any measures were taken to secure uniformity of practice, his full answer was, "No; I think really the practice there is governed by the Lord Chancellor's secretary"—who is yourself?—Yes.

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55,430. Are you aware of having laid down any definite rules to secure uniformity in that respect?—No, I cannot say that. Of course, the communications that come from me are, no doubt, pretty much the same, whether they are written to one master or another, and in that respect I should have thought that they would have had the effect of producing considerable uniformity. I should say that I have not observed any unreasonable diversity in the communications that I have had upon these subjects from different masters.

55,431. (*Chairman.*) When communicating about a question of that kind relating to a clerk in Chancery chambers, or a question of sick leave, do you communicate with the particular master under whom the clerk is working or with the committee of masters which you mentioned exists?—The communication would almost certainly be with the master under whom he is working. If some general question arose, or was suggested to me, out of the particular cases that come before me, I should probably write to the senior master to say that there was such a practice which appeared to be growing up, and I should like to know what he thought about it, or would he ask the other masters on the committee what they thought about it.

55,432. (*Mr. Graham Wallas.*) You said that for officers leading in the ordinary course of promotion to the more important and administrative work of these departments, in your judgment professional qualifications are necessary?—I think so, certainly, for the upper class.

55,433. Would you agree that care ought to be taken that those professional qualifications should represent a serious and important degree of training, and that you should not limit your area of possible applicants by insisting upon such a qualification as a few months as office boy in a solicitor's office or some other unreal qualification?—I am sure you do not mean to suggest that I would propose what I thought was any unreal qualification.

55,434. No. I want your great authority on that side—that great care should be taken not to limit the area of selection in any way, unless for full and sufficient reasons represented by a high degree of training and qualification?—My view is—though there I am not sure that I am quite at one with some of the officers in the department—that a man with no very high degree or no very great length of professional qualifications or training, and who is a man of ability, may come in at the bottom in the third class, and that such a man is able to train himself in the office, so that in course of time he may be quite an efficient clerk fit to go up to such a salary as 600*l.* a year.

55,435. That is to say, if you are going to bring in a boy of 18 to 20 it is very much more important that he should be a boy of ability than that he should have had a few months or years' experience as office boy in an office?—I am inclined to go with you there. I think ability is the first thing.

55,436. Then you said you would only discuss the question of the proposed committee to advise the Lord Chancellor as a hypothesis, and that you were not responsible for it?—No, I am not.

55,437. Discussing it in that way, hypothetically, do you think it would be a better arrangement that that committee should confine itself to original appointments or that it should also give responsible advice on questions of promotion?—I rather think that the sort of committee which Lord Loreburn described ought to be confined to original appointments.

55,438. You will remember that in our fourth report we proposed to make it normal that inside each office there should be a strictly official committee representing various forms of experience, and that that strictly official committee should recommend to the head of the office on matters of promotion. Do you think that that would be a possible arrangement in the legal offices?—I can see nothing in the nature of the legal offices to make that recommendation of ours not apply to them, and, as I think I agreed to that recommendation, I should not like to make any independent recommendation of my own with reference to the legal offices.

55,439. You said after the action of Parliament in deliberately refusing a large reconstruction of the lunacy arrangements you thought that the keeping up of a lay, or in this case a legal, visitor was necessary?—I think it is a good thing.

55,440. We had Mr. Mansfield here and he told us that his main work was done by travelling, that he was travelling anything from 110 to 120 days in the year, and that on the other days, to use his words, "Perhaps I ought not to say that my duties do not exist, but they are not onerous." If his work is so useful, would it not be possible for us to get a little more of it?—Of course it would be a very good thing both for him and everybody else if he could have more; but it must be limited by the number of patients who come in under that jurisdiction. When a vacancy occurred through the retirement of Mr. Palmer, who was the legal visitor, the question whether the office should be filled up or not was very carefully considered, and, I think, it was kept vacant for a little time, but I cannot be sure about that, at the moment. But it was then in contemplation to unite that office with the Commissioners in Lunacy; in fact, it never occurred to me for a moment that that was not going to be done; I thought it was certainly going to be done. Mr. Mansfield was told, and very willingly accepted the idea, that he would become part of the new consolidated office, and would take such business as could properly be assigned to him.

55,441. But if under the existing system the amount of work falls off to a seriously large extent, it would be obviously better to employ someone who was only giving part of his time to the work?—If you could find an appropriate person for that work.

55,442. With regard to the employment of women, putting aside the higher administrative inspectorial employment of women, there have been two main forms—the employment of women as typists and the employment of women in clerical work in departments and sub-departments where practically the whole of the clerical work is done by women. Is it not the case that in the Post Office, where they employ a lot of women clerks, as a rule they have a sub-department of work staffed by women?—No doubt that is so.

55,443. Supposing it was suggested that the work of storing, registering, and handling wills in the Probate Registry at Somers House could be gradually turned into such a department, manned, if I may say so, throughout by women, do you think that that might be a good arrangement from the point of view of the public interest?—I do not think my evidence is of much worth with regard to that particular office, because I do not know it intimately; but I cannot imagine that there could be any difficulty or objection.

55,444. Or that the work done there is unsuitable for skilled women?—No, I cannot conceive that it could be.

55,445. (*Mr. Shipley.*) It seemed to me from the evidence we have had that the Lord Chancellor has work that would occupy five or six busy and active men. Have any steps ever been taken to relieve of some of this work a very overworked man with immense responsibility?—No attempt that I know of.

55,446. The work is, I should think, becoming increasingly responsible, and he is increasingly overworked?—There is, no doubt, a great deal to do.

55,447. There has been no inquiry as to whether some of his work could be given to somebody else?—No, I think not.

55,448. (*Mrs. Deane Streetfeild.*) Mr. Graham Wallas asked you a question with regard to the visitors in the Lunacy Department, and you said that there might be some difficulty about the employment of a woman visitor, because the work at present was hardly more than could be done by those who are already doing it?—Yes.

55,449. Would not it, perhaps, be desirable in that case that a woman should be employed part time in special cases?—Yes, I see no objection to that at all. I think it is a very good suggestion, if I may say so.

55,450. (*Chairman.*) You told us that in the Central Office appointments are made in rotation by the Lord Chancellor, the Lord Chief Justice, and the Master of

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the Rolls, and also that there was a separate arrangement for the appointment of the masters and the appointment of the clerks. Is it the case that that arrangement has been to some extent modified as regards the appointment of the masters?—A change came when there was the consolidation of the different Taxing Offices. A practical arrangement was arrived at, at the time, that the Lord Chancellor should appoint to any vacancy that occurred in the enlarged Taxing Office, and that on the other hand only the Lord Chief Justice and the Master of the Rolls should appoint to any vacancy arising among the masters in the ordinary Central Office.

55,451. That arrangement applies to the masters only, and not to the clerks?—It applies to the masters only. There is no actual arrangement existing in writing, but that is the practice at this moment; it might be changed at any time if these three authorities were to be dissatisfied with what was going on.

55,452. Turning now to the provincial offices, I should like in the first place to be clear as to the present arrangements with regard to the registrars and the combination of the different offices. It is the case, is it not, that the High Court registrar and the Probate registrar are the same person in three places—Manchester, Liverpool, and Ipswich?—That is so.

55,453. And nowhere else?—As far as I recollect at the moment, nowhere else at present.

55,454. The High Court and County Court registrars are the same person at all other places where there is a High Court registry—some 86 in number?—Yes, I think everywhere.

55,455. But the Probate and the County Court registrars are nowhere combined in the same persons?—Except for a time at Ipswich.

55,456. At Ipswich he is the Probate registrar and the High Court registrar?—And, I think, also for a time the County Court registrar.

55,457. I think he was at one time, but is so no longer?—It will appear in the Law List.

55,458. In your former evidence you told us that the County Court registrar is everywhere appointed by the judge of the County Court, subject to the approval of the Lord Chancellor?—Yes.

55,459. And that the result of that was that where the offices of the County Court registrar and the High Court registrar were combined, in effect and in practice, the appointment rested with the County Court judge, subject to the approval of the Lord Chancellor?—Yes, practically.

55,460. And you suggested in those cases, at any rate, the appointment ought to be made by the Lord Chancellor?—It seems to me so, and I think that a clause to that effect in the County Court Bill has been two or three times before Parliament. I think it may be taken, as far as the Government is concerned, that is their view, but whether it would pass I do not know. It might be that there is some opposition to it. I do not know why there should be.

55,461. In the case of the other County Courts where there is not a High Court registry also, would you leave the appointment to be made as it is at present by the County Court judge, with the approval of the Lord Chancellor?—My own general opinion, as you know, is against appointments being in the hands of anybody but responsible Ministers; but the practical difficulty, the intolerable burden which it would be to have to appoint to the small registries, is so great that I do not think it would be on the whole a very wise and practical proposal to say that the Lord Chancellor should appoint to all the County Court registries.

55,462. In practice, does the present system give satisfaction in its results. Are suitable persons appointed to be County Court registrars?—I think so. The approval of the Lord Chancellor is by no means perfunctory. I do that business myself; I write to the County Court judges, and they are always very pleasant to deal with about it. There is no difficulty about communicating with them and learning from them exactly who it is that they propose to appoint and on what grounds.

55,463. And you see no great objection, except the general objection on principle, to leaving that matter as

it is?—No; but I do feel strongly about the High Court registries in those big places—first of all, upon the ground that a High Court officer ought not to be appointed by a County Court judge; and, secondly, that the appointments are large and important appointments. The class of people I refer to have all substantial salaries, and some of them high salaries, and I do not think it is consistent with the general practice with regard to appointments in the public service that they should be made by anyone except somebody of very high authority. I doubt whether the practical result would be very different, because the person who would be immediately consulted about the appointment on a vacancy occurring in one of those registries would almost certainly be the County Court judge. He knows about the place, and he knows the solicitors down there, out of whom one would be selected. But I think it would be desirable to put the thing the other way—to leave it to the Lord Chancellor to appoint where it is a High Court registry, feeling sure that he would consult the County Court judge on the subject.

55,464. At present only a small number of the County Court registrars are whole-time officers and pensionable—some 12, I think?—Very few. I do not recollect the number, but it must be a small number. A sort of effort is made upon every vacancy to get hold of a man who will give up his whole time; but, of course, it is only in some of the very large courts under the present system that you can get that. Under the law at present, every County Court district must have a separate registrar, and of course, therefore, it is only in places where the district comprises some really large towns you get an office where there is so much to do, and the pay is so high, that you can get a whole-timer.

55,465. Then you would be in favour of increasing the number of whole-time pensionable officers where it is practicable to do so?—Yes, I think so. We have always had reason to believe that a strong opinion is felt about that in Parliament. When the present County Court Act was passed in 1888, there was very great difficulty in preventing Parliament from enacting that every registrar was to be an officer kept out of practice, and in that sense a whole-timer. We managed to avoid that, and to get the Act passed without it, because in an immense number of districts you could not get a decent man under those circumstances, as there is a very small amount of money to give him, and he would have too little to do to keep him in proper condition.

55,466. Would it be possible to make more whole-time posts by uniting more than one court under one registrar?—I think that would be a very good thing to do.

55,467. It has been done in a few cases?—Yes, done by what is really an artificial arrangement. There is power to make a big district with so many places in which courts are held; but it really almost approaches to an evasion of the Act. I do not think it quite merits the condemnation of being called an evasion, but it is not exactly what the Act meant.

55,468. It has also been suggested by some witnesses that the number of small courts might be reduced; that the improvement in communications has rendered it unnecessary to have such a very large number of small courts in unimportant places?—That is a very difficult question. It is often recommended, especially by a County Court judge soon after he is appointed, that one or two small places should be abolished; but the opposition to it at once is so great that it becomes practically impossible to do it, and, generally, after a time the County Court judge ceases to hold so strong a view upon the subject.

55,469. (*Mr. Coward.*) It is like the question of the circuit system?—Very much the same.

55,470. The same principles apply; that is to say, you get the same local influences?—Yes, and I think, on the whole, the case is stronger for preserving the County Courts in small places than the circuits for small places, because it has more to do with the poor suitor, and the general sentiment about bringing the County Court judge to the poor suitor's door is stronger in the case of these small suitors than it is in the case

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of the more magnificent class of suitor who deals with the High Court.

55,471. But the peculiarity of it is that many places have grown up which are much larger than those in which the County Court exists, and which have no County Court?—That is so.

55,472. Yet if you were trying to move the court, from my experience with regard to circuits, you would find it quite impossible?—Many years ago Sir Francis Mowatt and I undertook to the Lord Chancellor and the Treasury that we would make a revision of all the County Courts, but, as a matter of fact, we never did it. It was sought to rectify it by a large use of Bradshaw, but it has never been done, and it would be very difficult to do it for the same reason that you referred to, which makes it so very difficult to make a reasonable arrangement with regard to the circuits.

55,473. (Chairman.) A similar question arises with regard to the smaller probate registries?—Yes, it is the same thing.

55,474. In the case of the smaller probate registries, the system being an older one, the divergence between their situation and the centres of population is even greater?—There is no doubt that they no longer correspond to the centres of population in the way in which, I suppose, they did when they were first instituted.

55,475. Would not it be desirable to make a change there and either to abolish some of the smaller registries or to concentrate them in larger centres of population?—I should have thought it was a reasonable thing to do, and probably a useful thing to do.

55,476. It has also been suggested by some witnesses that it would be advisable entirely to abolish the territorial limits which apply to the work of the different registries and to allow a will to be presented for probate wherever it may be desired?—You are referring now only to probate districts and not to the district registries of the High Court?

55,477. I am speaking now of the probate registries?—I do not think I am competent to answer that question. I cannot see any objection myself, but there may be objections of which I am not aware.

55,478. It was pointed out to us that considerable inconvenience arises from the present system. An instance was given of a man whose work is in Liverpool, whose business man is in Liverpool, but who happens to live on the other side of the river. If his will is to be proved at the district registry it must be proved at Chester and not in Liverpool. Any inconvenience of that kind, it was suggested, would be avoided if the territorial limits were abolished, and if, in a case such as that, his representatives were at liberty to prove the will at Liverpool or anywhere they pleased?—I have not considered that question. I can only say that, speaking off-hand, I should have thought the abolition of these artificial districts would be a good thing.

55,479. Would it be possible or desirable to combine the probate registry with the High Court and County Court registries?—I have myself thought that it ought to be done.

55,480. That you should have the same registrar and a combined office?—Yes.

55,481. If the changes which you have recommended in the manner of making appointments to the legal offices were carried out that would facilitate the combination of the three posts of registrar of the High Court, registrar of the County Court, and Probate registrar?—Yes, I think so.

55,482. The combination of those offices again would facilitate the solution of the difficulty which exists in creating more whole-time pensionable posts?—I think so. I cannot help thinking that if the idea were carried out of having an important and authoritative sort of Appointments Board—such a thing as Lord Loreburn, at any rate, proposed—to some extent the objection to the judges having the ultimate authority and calling the office their appointment would be considerably mitigated; it is not quite the same thing as the appointments being absolutely in their own hands. Then if you take the suggestion that, I think, more commends itself to this Commission, namely, that you have a strong committee, but that you leave the ultimate responsibility in the hands of the Minister, I still think

that in that case, treating the Lord Chief Justice or the President of the Probate Division as the ultimate authority, the objection is very much less than it is under the present circumstances. Assuming you take the appointment out of their hands, I am not sure that they ought not to have some voice or some representation upon the committee which deals with the appointments that come under their authority.

55,483. It was suggested that the head of the department should be a member of the committee for appointments in each department. Taking the case of the Probate Registry, I suppose that would be the senior registrar. Would that be sufficient representation of the President of the Division, or do you suggest that there should be separate representation of the President of the Division?—Of course, according to my personal view, the best thing is to abolish the right of the judge to appoint straight away—not with any reflection on the way a judge has exercised his power, but because, on principle, I think it ought to be in the hands of a Minister of the State. But if you are making an appointment within the department of which he has the practical management, as is the case with the Probate Division, I am not sure that he ought not to be at least made a necessary consultee, if not a necessary concurring party. I suggest that that requires some consideration if you are constituting a system abolishing all patronage except in the hands of a Minister of State.

55,484. In considering the probate registries a question arises with regard to what is termed the "agency business" done by the District Probate Registrars. We understand that in theory none of the registries do any business by correspondence, but that a system exists under which the registrars receive correspondence and do what is necessary to present the papers and so forth and assist to put them in order, and for that they charge certain fees. A question arose in the first place whether that was a proper system, and in the second place whether it would not be desirable that all registries, including the Principal Registry, should, as part of their normal duties, transact business by post as well as with personal applicants. Will you give us your opinion on that question?—Now that you mention it, I think there was some correspondence upon that subject some years ago between the Lord Chancellor and the President, and, I think, with the Law Society. My impression is that objection on principle was taken to that receiving of agency fees, but things were left alone because there was strong evidence of practical convenience that, as a matter of fact, it was a very useful thing to do, and that it was not large and at not an unreasonable cost, and that the registrars did not thereby obtain any very unreasonable addition to their remuneration. It was something of that sort; and it was left alone, according to my recollection. But I should have thought that taking fees and doing the agency business in a somewhat irregular way for money was a bad thing in principle and ought not to be allowed to continue. On the other hand, I cannot see why it should not be established, within whatever may be thought the proper limits, that business might be done by correspondence in those cases.

55,485. It would seem that that would be a convenience to the public in many cases?—Yes, probably. In fact, I think the practice that is referred to shows that it is a convenient thing. It has been allowed to continue, as I believe, just because it was a convenience; and, if it was a convenience, one does not quite see why it should not be part of the duty of the officer to act accordingly.

55,486. Certain registrars who gave evidence did not raise any objection to its being made a part of their official duties provided they received in some form an equivalent to the fees they at present receive. Do you think they would have a claim to receive an equivalent if that system were adopted?—It depends upon the amount of work they have to do and the salary they get. I think a registrar who gets a reasonable salary and has very little to do, might very reasonably be told to do this business which is put upon him without any increase to his salary. On the other hand, if his salary

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is very meagre and this is a substantial amount of business, one would naturally give him something.

55,487. (*Mr. Coward.*) If anyone came into his office and asked a question he would have to answer it?—Certainly.

55,488. If you take a case like Lewes, which has a district registry while Brighton has not, if a solicitor at Brighton wants to prove a will in the district registry he has either to go to Lewes or else communicate with the district registry and pay a fee for doing it, which seems absurd?—Yes.

55,489. (*Chairman.*) The staff employed by the district registries of the three kinds—County Court, Probate, and High Court—are, generally speaking, unpensionable and are appointed by the registrars themselves?—That is entirely so with the County Court and district registries. In the case of the probate registries I do not recollect at the moment how it is. I think they are on a different footing.

55,490. In the case of the probate registries the salaries are all fixed, we are told, under a scheme approved by the Treasury and the President of the division, and therefore they are not in the same position as the staff at the other registries, who are paid out of a lump sum?—No.

55,491. The clerks are appointed by the district registrar and are not pensionable?—The question whether they are pensionable or not is one which, I think, was raised as the subject of a long correspondence—a three-cornered correspondence between the Treasury, the Lord Chancellor, and one of the district probate registries, and the opinion of the law officers was taken two or three times; but those opinions, I think, did not agree with one another.

55,492. We were told a good deal about that, and it appeared that the last opinion on which the Treasury is now acting is that they are not pensionable?—Yes, I believe so.

55,493. Our attention has been called by several witnesses to the difficulty arising from the fact that these clerks are not pensionable; that when they grow old and past their work they cannot be turned out, except to go to the workhouse. The question arises whether that state of things could be remedied in any way. The suggestion has been made that for all these staffs—some of them are whole-time people and some are part-time, and some do work for the registrar in his private capacity as well as in his public capacity—a contributory pension system could be devised which would meet the case. Are you prepared to express an opinion on that?—I think a contributory system would be a very valuable thing for the clerks. I should like very much to see something of that sort exist.

55,494. We were told that a system of that kind does exist, for instance, for Poor Law officers, many of whom are part-time officers. You do not see *prima facie* any reason why such a system should not be devised?—None. But do you suggest that that should apply throughout all those offices?

55,495. It has been suggested that a system might be devised that would apply throughout, and would include even the part-timers?—Of course, there is a great distinction between the officers of a whole-time registrar and the officers of a registrar who practises privately, and whose official business does not occupy him more than a fraction of his time. There is a great distinction between those two. I can quite imagine the clerks in an office where the whole of their time is occupied on official business, saying that they did not see what the difference is between them and the clerks in the High Courts of Justice, and that they did not see why they should not be on the same system of salary and pension as those clerks. I should like to know whether you do not see a distinction between those two classes of clerks when you ask me a question about a contributory system.

55,496. I would suggest that the salaries of all those clerks, including those who are employed under a whole-time pensionable registrar, have been fixed on the basis of a non-pensionable system, and that therefore there would be nothing unreasonable, if they were made pensionable, in requiring from them a contribution to a contributory system, or in making some modification

in their salaries in respect of the fact that they were being made pensionable, and that therefore they would have no real ground for complaint if they were included in a contributory system together with the part-time officers in the other registries?—I should not like to commit myself to that. The subject of the positions of clerks in offices like those of the solicitors to public departments was a good deal considered by this Commission, and we made recommendations about them, and I rather think that the clerks in the whole-time registries would be very much in that position. If consistency is desirable, I would suppose that the Commission would make a similar recommendation about the clerks in these whole-time offices to that which they made about the clerks in the offices of solicitors appointed to public departments. The whole subject has been before you in a Report of a Committee presided over by Sir David Brynmor Jones, I think.

55,497. That report deals with the question, so far as concerns the County Court registries?—Yes; that, practically, raises the whole question.

55,498. (*Mr. Graham Wallas.*) We were told by the high bailiff of the Birmingham County Court that an arrangement is now in existence by which he receives, out of a salary of 1,000*l.*, 750*l.*, and that 250*l.* goes to his predecessor (who is ill and is unable to do his duty) as a sort of superannuation allowance; and he stated that that arrangement is permitted and sanctioned by the Lord Chancellor. Are there many of those arrangements for what I may call *quasi* superannuation allowances, by reserving part of the salary of the post for the ex-holder?—I do not recollect any, and I am bound to state that, until you mentioned it, I had forgotten about Birmingham.

55,499. (*The Secretary.*) In the proof of his evidence he struck out "Lord Chancellor" and substituted "the judge"?—That looks as if it had not received any formal sanction from the Lord Chancellor, and I do not know that it was a matter that required it; but I should think it is quite on the cards that the judge told me how he thought he could work the matter, and I may have told him that I thought it was all right. That is possible.

55,500. (*Mr. Graham Wallas.*) You see no difficulty in such a system—that when a post is not pensionable, part of the salary attached to that post should be reserved for the late holder of it?—I do not think it is right in principle. It does not sound to me very good business; but there are occasions when one has to depart from principle, I think, in order to work a good arrangement. I should not like you to condemn it as a corrupt and wicked thing, even in your own mind. If you would at all care to see what happened I will undertake to say, though I have forgotten it, that nothing of that sort would have been done unless I was perfectly clear in my own mind that it was in the public interest that it should be done.

55,501. It has high authority in the case of the Church?—But that is by statute.

55,502. Besides the agency fees which certain officials take, there are a number of other small fees which they are allowed to charge for, copies and things of that kind, in the probate registries, and I think in the County Court registries sometimes?—In the County Court registries the remuneration is made up entirely by fees that are taken, part of which are paid over to the Treasury and part of which the officer retains for his own use.

55,503. The officer retains up to a certain point?—Yes; that is all done under statutory authority.

55,504. In the matter of the war emergency legislation, the question of whether the registrar will in any particular case charge a fee or not we were told was left to the discretion of the registrar. A registrar complained to us that the discretion left to him was whether or not he should give somebody half a crown out of his own pocket. Obviously that creates a difficult position?—Yes, if it is so; but without the Act and the rules before me you will not be surprised if I cannot answer you. I do not carry all those rules in my head at the moment, although I have a responsibility as to all of them.

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Sir KENNETH AUGUSTUS MUIR MACKENZIE, G.C.B., K.C.

[Continued.]

55,505. Speaking generally, you will agree that it is undesirable to pay in legal matters by results, is it not?—Yes, but it is recognised in the County Court. We could not get on without it in the County Court, I am afraid.

55,506. It has been complained, for instance, that the officers of the court cannot help being unconsciously influenced in such matters as imprisonment for debt by the fact that a court which takes a high standard in that respect gets larger fees than a court which is not so ready to take such a standard?—I am quite ready to admit that payment by results is a bad system if one could get rid of it.

55,507. With regard to the agency business, it is understood that the agency business is to be done outside official hours?—I do not know.

55,508. But when we had three clerks before us the other day they all stated that when the unpaid public business did not take up their full time, they were in the habit of doing the agency business for which they and their employers were paid. That would constitute an irregularity and they seemed to admit that. If the

thing was done at any rate irregularly in office hours that fact would have to be carefully considered in basing any claim for compensation?—Yes, I think so.

55,509. You could hardly compensate a man for the loss of work which he had hitherto been doing irregularly in office hours?—No, but if you take the case of a man who has got two hours' work to do in the day and is also asked to do some agency business, do you suggest that he must wait until 5 o'clock before he does the agency business?

55,510. That seems to me to be what has been laid down by the majesty of the law. I find it difficult to keep my respect for the law in the presence of that regulation; but it is the fact, I think?—I should think that worked itself out, in spite of the law, in a reasonable manner.

55,511. But in a manner which makes it seem a little more absurd that compensation should be demanded when that work is ordered to be done in official hours as part of the official business?—Yes, I think it makes the case a weak one.

ONE HUNDRED AND THIRTY-THIRD DAY.

Thursday, 13th May 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Miss HALDANE.

Mrs. DEANE STREATFEILD.

Mr. E. W. H. MILLAR (*Secretary*).

Sir JAMES MILLER DODDS, K.C.B. (Under Secretary for Scotland), called and examined.

55,512. (*Chairman*.) What is the office that you hold?—I am Under Secretary for Scotland.

55,513. How long have you held that office?—Since 1909.

55,514. Had you been for some time in the Scottish office before that?—I have been in the Scottish office since 1889.

55,515. In those capacities you have acquired a considerable knowledge of the legal departments in Scotland?—A general knowledge.

55,516. I will ask you to give us some general facts with regard to the legal departments that come under the view of the Commission. In the first place I will read you some paragraphs from the Fourth Report of the Commissioners who inquired into the Courts of Law in Scotland in 1870, and will ask you whether the matter therein contained is correct at the present time: "The judicial system of Scotland may be described in general terms as consisting of a Supreme Civil Court called the Court of Session, a Supreme Criminal Court called the Court of Justiciary, and certain inferior or subordinate courts, acting in different localities and exercising various kinds of jurisdiction. In the Scottish judicial system there never has existed that division of courts into Courts of Common Law and Courts of Equity which exists in England, consequently none of the inconveniences attributed to such a division have at any time been experienced in Scotland." Then it says the Court of Session "exercises jurisdiction, original or appellate, in all classes of questions litigated in civil causes, whether of the nature of common law or equity suits, or maritime causes, or arising in bankruptcy, or relating to status or to wills, and also in exchequer matters." . . . "The Court of Session, as already indicated, is the Supreme Court in civilibus only. It does not administer the criminal law of the country. The Supreme Court in criminalibus is the Court of Justiciary, which exercises jurisdiction in all matters of crime, either at Edinburgh or at certain towns where circuits are held at stated periods." . . . "Besides the Court of Session or Supreme Civil Court, and the Court of

Justiciary, or Supreme Criminal Court, the judicial system of Scotland comprises several inferior courts, exercising within certain localities and under certain restrictions, jurisdiction, civil or criminal, subject to review and correction in the former case by the Court of Session, and in the latter case by the Court of Justiciary, unless such review is specially excluded by statute." Is that correct at the present time?—That is generally still a true statement of the position.

55,517. Are the departments with which we have to deal, generally speaking, those which carry on the clerical work and the work of record connected with the courts described in those paragraphs?—That is so.

55,518. We should like to have a brief statement of what those departments are and the nature of the work with which they deal. In the first place there is the Lord Advocate's Department?—Yes. The Lord Advocate is chief legal adviser to the Crown in Scotland. He has general charge of criminal business, and is the head of the public prosecution system which prevails in Scotland. He is also responsible for pursuing and defending civil actions, as representing the Crown, and acting as counsel for the Crown generally.

55,519. He also advises the Secretary for Scotland and the Crown with regard to many legal appointments, does he not?—The position can be stated in this way: The office of Secretary for Scotland was founded in the year 1885. Up to then the Minister for home business in Scotland had been the Home Secretary. The Lord Advocate, so far as he was attached to any department, was attached to the Home Office, and advised the Home Office in very many matters relating to Scotland. Among other things he nominated to various legal appointments in Scotland, and the Home Secretary is understood to have habitually acted on such nominations. When the Secretary for Scotland's office was established, a special saving clause was inserted in the Act establishing it, which saved the privileges of the Lord Advocate; and, in consequence of that saving, nominations which were formerly made by the Home Secretary to the Crown now proceed, as regards most legal appointments, upon the Lord Advocate's nomination to the Secretary for Scotland. He also is

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[Continued.]

available to the Secretary for Scotland in dealing with legal matters generally, and we can always rely upon his advising in all such questions.

55,520. Are the offices directly under the Lord Advocate mainly concerned with the criminal part of his work?—Only his own office—the Crown Office—and the officers connected with it, including, under recent legislation, the Procurators Fiscal, or Public Prosecutors, throughout Scotland.

55,521. Apart from the Procurators Fiscal, the establishment directly under the Lord Advocate is comparatively small?—Comparatively small and largely political, coming in and going out with the Government.

55,522. The principal officer under him is the Crown Agent?—The principal solicitor under him is the Crown Agent. There are also the Advocates Depute, who, under the Lord Advocate, conduct criminal prosecutions in the High Court.

55,523. We shall, no doubt, hear later in greater detail as to the nature of that establishment. Coming now to the Court of Session, what are the offices dealing with the business of the Court of Session?—Perhaps I should explain very shortly the constitution of the Court. The Court of Session consists of what is called the Inner House and the Outer House. The Inner House consists of two courts called the First and Second Division, each of which consists of four judges, the one presided over by the principal judge in Scotland, the Lord President of the Court of Session.

55,524. He is also Lord Justice-General?—He is also Lord Justice-General, and in that capacity is head of the Court of Justiciary. The other division is presided over by the Lord Justice Clerk. That accounts for two courts.

55,525. Comprising eight judges?—Yes, eight judges. There are also five other courts, in each of which a single judge sits, called a Lord Ordinary. There are thus 13 judges of the Court of Session in all.

55,526. The five Lords Ordinary form the Outer House?—Yes, collectively their courts are called the Outer House. An action originating in the Court of Session is brought in the first instance as a rule before a Lord Ordinary. Appeals from inferior courts go to one of the divisions of the Inner House. The Inner House thus chiefly exercises appellate jurisdiction, but it has also some original jurisdiction.

55,527. Cases heard, in the first instance, by a Lord Ordinary in the Outer House, if an appeal is desired, pass to one of the divisions of the Inner House?—Yes, and finally, if desired, to the Houses of Lords.

55,528. Will you tell us what the offices under the Court of Session are?—The principal officer under the Court of Session is the Principal Clerk of Session. Formerly there were several principal clerks, but under legislation, which ended by an Act in 1913, there is now only one principal clerk of session. He gives personal attendance at every sitting of the Court; he is responsible for the technical language and form of the judgments, interlocutors, and orders of the Court, and discharges generally, with the staff of the Court, the functions of clerk of the Court. Under the principal clerk there are five depute clerks, one attached to each Court of the Outer House. Their duties are similar to those in fact of ordinary clerks of the Court. Then there are two depute clerks for the Inner House, one for each division; there are five assistant clerks, one to each depute clerk, and there are two ordinary clerks, one of whom is attached to each division. Then the junior Lord Ordinary in the Outer House takes summary and preliminary business in what is known as the Bill Chamber; and there is a staff attached to that department also—a small staff consisting of three clerks. Some of the judges of the Court sit as a Court of Teinds. “Teind” is roughly the Scotch equivalent of tithe. The Court of Teinds conducts business relating to teinds, such as the augmentation of the stipends of ministers of the Church of Scotland, and the disjunction and erection of new churches and new parishes.

55,529. These are very technical matters?—Very technical.

55,530. But small in volume?—Small in volume, but involving difficult questions of title, and so on.

55,531. Then there are some minor departments?—Yes, there are offices under various names. One is called the Keeper of the Minute Book and of Edictal Citations. His duty is to arrange and preserve copies of such citations; that is, citations of parties not resident in Scotland, and so on, and to arrange for publication the entries in the minute book kept in the office of the principal and depute clerks of session; he has a clerk with an allowance. Then there is the extractor of the Court of Session, whose duty is to issue extracts of decrees of the Court; there is also an assistant.

55,532. Does he draft the decrees?—No. I understand the decrees—that is to say, the interlocutors, the findings of the Court—are drafted by the clerks. His duty is simply to issue extracts as required. He has an assistant extractor and an allowance for clerks. Then there are the keepers of the rolls of the Inner House—two officers who also act as clerks to the heads of the two divisions. There are the judges’ clerks, who are attached personally to each judge. There is further the auditor to the Court of Session, an officer appointed to tax expenses found due by the Court, roughly corresponding to the taxing master in the English court. He also taxes other accounts remitted to him and draws fees for doing so; he has an allowance for a clerk. Finally, there are the macers or officers of the court.

55,533. Corresponding to the ushers in the English courts?—Yes, I suppose that is the nearest analogy. They are charged with the duties of ushers, the preservation of silence, and attendance on the judges. There are seven macers of the Court of Session.

55,534. Then there is a department of the Accountant of Court?—The accountant of court is charged with the supervision of trustees in bankruptcy and judicial factors. He has a staff under him.

55,535. If funds are paid into court are they placed in the charge of the accountant of court?—I understand so.

55,536. Turning to the Court of Justiciary, what is the office dealing with the business of that court?—Perhaps I should explain that the Court of Justiciary is simply composed of the judges of the Court of Session sitting to try criminal cases. The principal officer of the court is the clerk of justiciary, an advocate at the Scottish Bar not under restriction as to practice. He has the general supervision of the Justiciary Office and has two clerks attached to him. He is also in charge, under the court, of the records of the Justiciary Court.

55,537. That completes the account of the offices directly concerned with the current business of the courts?—That is so. Perhaps I might point out that the total numbers are comparatively small—only 51. That does not include the office of the Court of Justiciary or the Accountant of Court, but it includes, I think, all the others I have specified.

55,538. The staff of the offices of the Court of Justiciary and the Accountant of Court would only mean 10 or 12 more?—Yes.

55,539. Will you tell us now about the group of offices in the Register House; in the first place, those which are under the Deputy Clerk Register?—The Register House Department represents offices which originally were under the control of a high officer of state in Scotland called the Lord Clerk Register, whose principal functions were the duties of the custody and control of records. Scotch courts have always been very careful of their records. By the passing of the Lord Clerk Register (Scotland) Act, 1879, his office was made almost entirely titular, and his rights and duties in regard to the public registers, the records, and Rolls of Scotland and to the keepers and other officers thereof were transferred, subject to the provisions of the Act, to an officer called the Deputy Clerk Register. In the Register House there is a Record Department for the custody of records, largely legal but also including a number of the old historical records of Scotland.

55,540. Do the current records, which after a number of years are transferred to the Record Department, include only the legal records, or do they also include the records of the other Scottish departments?—That is a question which must come up some

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day. At the present time I do not think I could say that there is any absolute rule laid down except as regards the legal records. The question of the final disposal, for instance, of the records of my own office has never, so far as I remember, been settled.

55,541. It has not been long enough in existence for the question to arise?—Not long enough in existence to make it absolutely necessary. There is also the Historical Department, the head of which is the curator of the Historical Department, which has the immediate supervision of the more ancient records, and supervises, under the Deputy Clerk Register, the publication of historical documents which is constantly going on; he has a small staff. Then there is, what numerically is by far the most important part of the Register House—the general registry of Sasines, which is the office where all writs relating to land and heritages in Scotland are recorded.

55,542. Those documents are copied and kept in bound volumes?—Yes, and passed over every year to the Deputy Clerk Register for preservation. They are of great importance, because on priority of record in this register depend rights over real property in Scotland. The Registry of Sasines accounts for about 120 out of a total of about 180 in the staff of the Register House departments.

55,543. Does that include the engrossing staff?—That includes the engrossing staff, both in and out of the Registry of Sasines. Then there is the Register of Deeds. There is a keeper of the Register of Deeds, who records in the books of council and session deeds and other writings, not being writs which require registration in the Register of Sasines; he has a small staff under him. There is further the Director of Chancery; he records decrees of services of heirs and deals with certain Royal warrants which have to pass the Great Seal.

55,544. Those are departments which are all under the general control of the Deputy Clerk Register?—Those are the departments which are covered by the Act of 1879, which I have mentioned.

55,545. Are there any other departments which are actually lodged in the Register House?—I understand that the office of the keeper of the Signet is in the Register House. The Keeper of the Signet is the Lord Clerk Register; he has a deputy keeper, and, under him, there is a substitute keeper and a clerk. The Signet is the King's Seal for judicial proceedings, and requires to be impressed on summonses. The deputy keeper also holds a very honourable office, which entitles him to preside at the meetings of the Society of Writers to the Signet, and the substitute keeper and clerk draw up the minutes of those meetings.

55,546. Then, except for the impressing of the Seal, that office is concerned more with the affairs of the Writers to the Signet than with the affairs of any court?—I understand so. Then there is the clerk to the Admission of Notaries who prepares and transcribes the Commissions of Notaries Public, presents petitions to the Court of Session for their admission, and so on.

55,547. Will you now take the Scottish Land Court?—The Scottish Land Court under that name was established in 1911 by the Small Landholders (Scotland) Act.

55,548. In succession to the Crofters Commission?—Yes, but with much wider scope. Its main duty is to fix fair rents for small holdings, to decide upon the application of compulsory powers of acquisition for small holdings, and to deal with the creation of small holdings on the application of the Board of Agriculture for Scotland.

55,549. How is the Land Court constituted?—It is constituted under a Chairman, and there are four other members of the Court.

55,550. The Chairman and the members of the Court are in the position of judges, and are paid out of the Consolidated Fund?—That is so.

55,551. And there is a staff for carrying out the work?—Yes, a small staff.

55,552. Turning to the system of local courts, will you describe generally the arrangement of the Sheriff Courts?—The Sheriff Courts system of Scotland is the product of the history of the country

during the last 200 years. There are 15 officers, who between them have jurisdiction over the whole of Scotland, called Sheriffs—Sheriffs Depute, or more commonly Sheriffs Principal. They are the successors of the old Hereditary Sheriffs of Scotland, and are not merely judicial officers, but have considerable administrative functions. They are in some respects more analogous to the French *préfets* than anything you have in England.

55,553. Are they always advocates?—They have always been advocates.

55,554. And non-resident in their jurisdiction?—Usually non-resident in their jurisdiction. They are permitted to practise and are paid out of the Consolidated Fund. Under them there are 56 Sheriffs Substitute. As there are 33 counties it is obvious that in some counties there is more than one Sheriff Substitute. In Glasgow and in Edinburgh there are several. The Sheriffs Substitute have a very wide jurisdiction. On the Civil side the nearest analogy in England would be the County Court judge, but I understand that the Scottish Sheriffs' jurisdiction is wider. They also have a wide criminal jurisdiction. Under our Scottish system the Sheriff Courts are the courts having the local criminal jurisdiction in counties. In burghs the petty criminal jurisdiction, which in England would be exercised by the justices, is exercised by Baillies who are Town Councillors, and are selected by the general body of the Town Council from its own members.

55,555. Are they paid out of local funds?—They are not paid at all; they are unpaid. The Crown does not contribute to the cost of those Burgh Courts.

55,556. Their cost is entirely supported by local funds?—Yes.

55,557. Then, apart from these Burgh Courts, the Sheriff Courts carry on the whole local jurisdiction both civil and criminal of the country?—That is so. Of course, we exclude the Circuit Courts and the justices.

55,558. (*Mr. Coward.*) And the Courts in Edinburgh?—Naturally; they are common to the whole of Scotland, of course.

55,559. The courts in Edinburgh have joint jurisdiction, have they not?—The courts in Edinburgh have—you mean the Court of Justiciary and the Court of Session?

55,560. I was speaking of the civil business only?—In certain cases a litigant may choose the Sheriff Court or the Court of Session.

55,561. (*Chairman.*) What staff is attached to the Sheriff Courts?—In every county in Scotland there is one Sheriff Clerk who is attached to the sheriff at the principal town of the county. He is the only officer whose salary appears on the Estimates, but in each case he has a staff of deputies and clerks whom he pays out of an allowance which is made to him and which appears on the Estimates. He is responsible for the deputies and clerks; he appoints them and discharges them, and answers for their actions.

55,562. And he fixes their remuneration out of the fixed allowance which is given him for the purpose?—I think, in some cases, he submits a schedule of salaries, which are therefore known to the Scottish Office and to the Treasury, but, generally speaking, he is responsible for the administration of his own office.

55,563. Are his duties purely clerical or does he do any of the minor judicial work of the Court?—Speaking generally, they are purely the duties of a clerk of court. He has practically no duties corresponding to those of officers known as masters or registrars in English courts; he has no judicial duties.

55,564. You have already mentioned the Procurators Fiscal under the Lord Advocate. Are their duties generally concerned with the prosecution of crime in the Scottish Courts?—Yes, the duty of the Procurator Fiscal is to investigate criminal charges, to prosecute before the Sheriffs Court, to initiate prosecutions in cases indicted before the Court of Justiciary, to institute inquiries in cases of sudden or suspicious death, &c. There is no coroner in Scotland. Perhaps I ought to say there are also Procurators Fiscal or Public Prosecutors in the Burgh Courts and in the Justice of the Peace Courts, but they are not paid by the Exchequer. The Justice of the

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Peace Court has nothing like the prominence in our Scottish judicial system which it has in England.

55,565. Are the Procurators Fiscal appointed by the Lord Advocate?—Yes, under recent legislation. There are 50 Procurators Fiscal, and their staff, where they require a staff, is paid under a similar system to that of the Sheriff Clerks, namely, by allowances from the Treasury to the Procurator Fiscal for Deputes and clerks. There are 43 Procurators Fiscal Deputes.

55,566. Are the Sheriff Clerks all whole-time officers?—Not necessarily.

55,567. The Sheriffs Substitute, I presume, are?—Yes, they are.

55,568. Are the Procurators Fiscal whole-time officers?—As a rule. Perhaps I should explain, as regards the Sheriff Clerks, the question of restricting them to their public duties is considered as a vacancy occurs, and, if it is thought desirable, both in their case and in the case of the Procurators Fiscal, they are so restricted.

55,569. Does that complete the list of the departments of the Service under our view?—I think so. There is one official who is mentioned in the Estimates before the Sheriff Clerks, namely, the Commissary Clerk of Midlothian.

55,570. What is his position?—The Commissary Clerk roughly corresponds to the local probate official, and in the other counties of Scotland his duties are now merged in the office of Sheriff Clerk; but the Commissary Clerk of Midlothian is still retained, and has exclusive jurisdiction as respects the estates of persons who die domiciled away from Scotland—"furth of Scotland," as the old phrase is. He has a staff allowance from the Treasury.

55,571. What are the powers of the Secretary for Scotland as regards the control of those various departments?—The general powers of the Secretary for Scotland are those inherited from the Home Secretary. Under the Secretary for Scotland Act 1885, he took over the statute and common law powers of the Home Secretary except in certain spheres, which were specified in the Act. The sphere of law and justice was included in the transfer. Since 1885 a few Acts have been passed conferring direct powers on the Secretary for Scotland in regard to the appointments under discussion. In the first place he recommends to the Crown for legal appointments; in the majority of the cases on the nomination of the Lord Advocate as already explained. He and the Lord Advocate are, of course, always in Parliament, and between them answer for the legal departments in Scotland. Estimates for the legal departments do not pass through the Scottish office, but all changes in salary, applications for pensions, resignations, and so on, do so pass as a general rule. In dealing with the legal departments, the Secretary for Scotland has the advantage of the advice of the Lord Advocate, with whom he habitually consults.

55,572. Apart from the question of appointment, with which we will deal presently, what powers of control as regards discipline and organisation has the Secretary for Scotland?—So far as the staff of the Court of Session is concerned, he has no direct power of control. This control is vested by statute in the Principal Clerk of Session subject to the further powers of the President and the Court. The Principal Clerk can suspend offending officials up to six months.

55,573. Does that imply that the Principal Clerk has disciplinary powers in matters short of that?—I think that would be an extreme step. Short of that he could act, no doubt, by warning; but I am not familiar with the details of this.

55,574. If it is a question of actual dismissal, then the Court has control?—Then the Court has power to dismiss for malversation or neglect of duty. In my experience it has never come to a question of invoking these powers except in a single case, and in that case it did not proceed to dismissal, because the clerk ultimately handed in his resignation to the Secretary for Scotland.

55,575. In matters of distribution of work, distribution of staff, and re-allotment of duties, has the Principal Clerk of Session complete power?—He has power for this purpose under an Act of 1889.

55,576. Except so far as he is hampered by legislation?—By legislation and by the salaries.

55,577. The statutory regulation of the details of the court is very minute?—It is very minute, and possibly there is room for improvement in this respect.

55,578. What is the position as regards the Register House departments?—As regards the Register House departments, the Secretary for Scotland exercises a general power of disciplinary control on appeal from the principal officers of those departments. The Deputy Clerk Register within his sphere, and the Keeper of Sasines within his sphere, control their own departments subject to this appeal.

55,579. Have they the power of dismissal?—Before dismissing they would certainly refer to the Secretary for Scotland.

55,580. And in case of minor punishments the officer concerned would have a right of appeal?—That is so.

55,581. What is the position as regards the Sheriffs Courts and the Procurators Fiscal?—I am not familiar with the details of the disciplinary control, but it may be taken that the Sheriff Clerk within his sphere and the Procurator Fiscal within his, controls his deputies and clerks, and deals with them in a disciplinary way.

55,582. Who controls the Procurators Fiscal. Has the Lord Advocate a power of dismissal?—No, the Procurator Fiscal is under the same regulations as the Sheriff Substitute; he can only be dismissed on a report received from the two principal judges of the Court of Session made to the Secretary for Scotland. The person who would move the court, I take it, would be the Lord Advocate.

55,583. In the case of the Land Court, what is the control?—As to the Land Court the question has not really come up, but I assume that the Land Court, which appoints its own staff, can control and would have power to deal with offending members of the staff.

55,584. If there are questions with regard to any of those departments as to an alteration in the numbers of the staff or in their scales of pay, either in the way of increase or decrease, how would they be dealt with?—They would be dealt with as a rule by correspondence conducted through the Secretary for Scotland's department with the Treasury. That is the general practice.

55,585. The question would be initiated by the department concerned, which would correspond with the Scottish Office?—Yes.

55,586. And the Scottish Office would correspond with the Treasury if it was a matter of finance?—Yes, if it was a matter affecting finance.

55,587. So the Scottish Office comes in in all questions of changes in salaries and numbers?—Yes.

55,588. Does that apply to the local system as well?—Yes, that applies also to the local system. While I say that is the general system, I do not wish to be taken as saying that it is never done differently.

55,589. Is that what you consider the proper course?—It is the convenient course in my experience.

55,590. Does that apply to the local system also, if it were a question of a change in the fixed allowance of a Sheriff Clerk or a Procurator Fiscal?—Yes.

55,591. Correspondence in that case would come from the individual Sheriff Clerk to the Scottish Office?—It might reach the Scottish Office either from the individual Sheriff Clerk or through the Lord Advocate; there is no very strict rule laid down.

55,592. If there was a case for diminishing the allowance of a Sheriff Clerk or a Procurator Fiscal, who would initiate that?—I take it that it would be initiated as a rule in the Treasury through the King's Remembrancer in Edinburgh, who is the Treasury watch-dog in these matters.

55,593. It would be his business to look out for places where economy is possible?—I think so. Of course, my own department, so far as its knowledge goes, would consider it its duty to take similar action where it was required. For instance, the Principal Clerks of Session, when one of them retired in 1912, were reduced from two to one, and 1,000*l.* a year was saved in that way.

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55,594. That was also a matter on which recommendations were made by the Committee on Minor Legal Appointments?—I do not think it recommended a reduction to one, according to my present recollection.

55,595. Perhaps I should rather say that that question was raised in some of the memoranda attached to the report of that Committee?—The general report did not recommend a reduction to one Principal Clerk of Session.

55,596. Do you consider that that system of control is satisfactory?—It is perhaps not entirely consistent and systematic, but in practice in my experience it works fairly well.

55,597. What strikes me at first sight about it is that the powers are considerably divided. Taking the case of the officers of the Court of Session, for instance, the power of appointment is with one authority, the current discipline is with another authority, and the ultimate power of dismissal is with a third authority. Does not that division of authority create some confusion in practice?—I should reduce your three to two, if I may presume to do so, because I do not think one can readily admit that the Principal Clerk of Session is a different authority from the Court.

55,598. Is it not the case that he has statutory powers of control quite apart from the Court?—That may be, but I am sure that in practice he always consults with the Court.

55,599. Do you consider that as regards the position of the Secretary for Scotland and his office, the powers of control are adequate and satisfactory?—I think so. In my experience we have always managed to preserve our control as appeared necessary within the sphere of the Secretary for Scotland, which, as I explained, does not extend over all the departments with which you are dealing.

55,600. Do you consider it satisfactory, in the case of the local courts, as regards the subordinate staff?—With the existing system I do not see that it would be easy to introduce any different arrangement so long as the Sheriff Clerk in his sphere and the Procurator Fiscal in his receive a lump sum allowance, and become responsible for the appointments that are made out of it. You must either take away his responsibility, or, if you are going to preserve it, you must, I think, leave the main disciplinary powers with him.

55,601. What do you mean precisely by "his responsibility"?—Take the case of the Sheriff Clerk; I have not the warrant before me here, but my recollection of it is that it contains a clause to the effect that he may appoint deputies for whom he shall answer. Supposing there was, for instance, malversation on the part of a deputy, the Sheriff Clerk would be responsible to find the money.

55,602. He is financially responsible for their defalcations?—I understand that he is financially responsible.

55,603. Do you attach importance to that financial responsibility of the Sheriff Clerk and the Procurator Fiscal for the subordinate staff?—I think on the present system it is the consequence of the existing arrangements. If you tell a man that he is to employ his own staff, and if you do not control his appointment of his own staff, I think you are bound to make him responsible for the doings of that staff; otherwise, the State presumably would be answerable for people whom it did not really control.

55,604. But supposing you had a different system of appointment?—That is a different matter.

55,605. Will you tell us now about the method of appointment in the various offices which you have described. In the first place the Lord Advocate's officers are, I suppose, appointed by the Lord Advocate himself?—Yes, including the Crown Agent, the Advocates Depute, and the Procurators Fiscal.

55,606. Then as regards the officers of the Court of Session?—As regards the officers proper of the Court of Session—those specified on page 332 of the current Estimates, whose number is 51 in all—I find that 30 are appointed by the Crown, on the recommendation of the Secretary for Scotland, following on the nomination of the Lord Advocate.

55,607. Does that include practically all the staff with the exception of the judges' clerks and the subordinate officers?—I think that is so. Even the seven macers are appointed by the Crown.

55,608. That is to say, as you have told us, they are appointed on the recommendation of the Secretary for Scotland, who consults the Lord Advocate?—He accepts the Lord Advocate's nomination, so that the substantial patronage is with the Lord Advocate. Then in the Court of Justiciary, the Clerk of Justiciary is appointed by the Crown; he appoints his own assistant clerks, two in number, with the Lord Advocate's approval. The Accountant of Court is appointed by the Crown; his staff is regulated by the Secretary for Scotland, and receives Civil Service certificates.

55,609. What exactly does "appointment by the Crown" mean. Is there a warrant under the Great Seal?—In some cases under the Great Seal, in some cases not.

55,610. What is its meaning as regards tenure of office. Do the officers who are appointed by the Crown differ in their tenure from those who are appointed otherwise?—The general tenure is *ad vitam aut culpam*; but in the majority of warrants we now insert the provision that they are liable to retire at 70 years of age if called upon to do so.

55,611. Does it make a difference as regards the necessity for a Civil Service certificate?—Yes, a Crown warrant, as a rule, entitles to pension without a Civil Service certificate.

55,612. Do you see any necessity for retaining the Crown appointment in the case of all these officers in the Court of Session?—Personally I do not, but as the substantial patronage is vested in the Lord Advocate I think he ought to be consulted on this point.

55,613. What is the method of appointment in the Register House departments?—The Deputy Clerk Register and the Keeper of Sasines are appointed by the Crown. The rest of the staff are appointed by competition subject to the possession of certain qualifications. There is a special examination. The staff have to possess legal knowledge; and, in addition to that, they are examined in general knowledge, and the examination is a competitive examination.

55,614. Does that apply to the whole of the staff?—The Deputy Keeper of Records, the Keeper of Deeds, and the Curator of the Historical Department are appointed by the Secretary for Scotland. The rules as to competition do not apply to them. The rest of the staff is appointed in the way I have described.

55,615. Do those appointments which are made by the Secretary for Scotland differ otherwise than as regards the formal warrant of appointment from the Crown appointments?—I think not.

55,616. Do they differ as regards tenure?—Speaking from recollection, I think all those officers are subject to the ordinary Civil Service rules of retirement, possibly at 60 and compulsorily at 65, except in the case of the Deputy Clerk Register and the Keeper of Sasines, in whose warrants there occurs the requirement to retire at 70.

55,617. You have mentioned that there is a considerable engrossing staff. How are they appointed?—They are paid out of allowances in the hands of the principal officers. Of course the statement as to examinations which I have made does not apply to this staff; they are selected and appointed by the principal officers themselves, and are paid by the piece.

55,618. What is the position of the small Chancery Department?—The principal officer of the Chancery Department is the Interim Director, who was appointed by the Court of Session. It is under consideration whether this department, which is very small, should be abolished and the duties of it merged in those of an officer of another department.

55,619. Can you say how long the present Interim Director has held his office?—I am afraid I do not remember when he was appointed.

55,620. In the Land Court you told us that the staff is appointed by the Court?—The staff is appointed by the Court, except the principal clerk, who is appointed by the Secretary for Scotland. The present

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principal clerk was taken over from the Crofters Commission.

55,621. Turning now to the local organisation, by whom are the Sheriffs Substitute appointed?—They are appointed by the Crown on the recommendation of the Secretary for Scotland and on the substantial patronage of the Lord Advocate, from the members of the Scottish Bar, and, in some cases, of the solicitors' branch of the Scottish legal profession.

55,622. And the Sheriff Clerks?—They are appointed by the Secretary of Scotland on the Lord Advocate's nomination. Their staff is provided for by an allowance.

55,623. They are not Crown appointments?—They are not Crown appointments.

55,624. You said their staff is entirely appointed by the Sheriff Clerks themselves?—That is so.

55,625. The Procurators Fiscal, you told us, are appointed by the Lord Advocate?—That is so.

55,626. And their staff is appointed by the Procurators Fiscal themselves?—Yes.

55,627. You are acquainted with the report of the Minor Legal Appointments Committee on the local offices?—I have not had time to look at it in any detail recently; but I read it, of course, when it was made.

55,628. One question raised before that committee was whether the staff of the local courts should be put on a permanent footing and made pensionable. Are you in accord with the recommendation they made on that matter?—I have some hesitation in giving an opinion without having had more time to go into it than I have recently; but generally my opinion coincides with that of the committee, that the allowance system is not a satisfactory system for the State to employ.

55,629. Did the recommendations of the committee deal with the question of those local offices as a whole?—They were unable to deal with the office of Sheriff Clerk in any substantial way because it was not included in the remit. Their remit included the office of Sheriff Clerk Depute, and they were hampered in dealing with the question in a general way because it is obviously a difficult matter to deal with pensions of subordinates when you cannot deal with the principal.

55,630. But in spite of that difficulty they expressed a preference for a pensionable system for this subordinate staff?—They did.

55,631. Would you infer from that that if their hands had been free they would have recommended a similar system for the principals?—That is the inference I would draw from their conclusions.

55,632. Were the Procurators Fiscal within the reference?—They were not included.

55,633. So that a similar difficulty arose in dealing with the subordinate staff of the Procurators Fiscal?—It would have arisen equally.

55,634. Did the committee report on the staff of the Procurators Fiscal?—Not according to my recollection.

55,635. Your observations as regards the position of the staff in the Sheriff Court offices would apply equally to the staff under the Procurators Fiscal?—Yes; and, if I may say so, to similar arrangements made in regard to various offices connected with the Court of Session.

55,636. You have told us already that you consider the number of Crown appointments is greater than necessary, and that it might with advantage be reduced?—I think so, as a personal opinion.

55,637. Are there any other points in connection with the present system of appointment on which you have suggestions to make?—I think one question which has frequently forced itself upon my observation is, that the statutes relating especially to the Court of Session are very badly in need of consolidation. I am aware that the Statute Law Committee has had the matter lately under consideration, and I hope that something may come of it.

55,638. There are a number of statutes, some of them regulating matters of very minute detail, are there not?—That is so. One reason why such recommendations as those of the Minor Legal Appointments Committee are not carried into effect so promptly as

they might be, is that legislation is necessary. Several statutes, perhaps, have to be repealed, and all that takes time, and it is not very easy to get such legislation through the House of Commons under existing conditions.

55,639. Does the present method of appointment depend upon statutory enactments for the most part?—So far as Crown appointments go it depends upon statute.

55,640. If any reduction were made in the number of Crown appointments, that could only be done by legislation?—By legislation only.

55,641. Do you think that the present system, as regards the nominating authorities, is satisfactory?—I have already expressed the opinion, as a personal opinion, that it would be expedient that the number of Crown appointments should be reduced. I think that Ministers would be quite willing to see those appointments reduced; but I suggest that the Lord Advocate, as substantially responsible, should be consulted on this point.

55,642. Under the existing system, have the appointments to the higher posts been made, as a rule, from outside or by promotion from inside the offices?—As a rule, I think, from outside.

55,643. Have political considerations often come in in the selection of persons to be appointed to the higher posts?—Officially I am not in a position to say.

55,644. Unofficially, can you say whether it is a matter of common knowledge that that is the case?—I think it is.

55,645. From the point of view of the proper organisation of the Service, do you see objections to that system?—I am not prepared to say that the system has had undesirable results, looked at all round. I think it is to some extent out of date, and not in harmony with modern desires and conditions. When I look at the result of the competitive system in the non-legal branches of the Civil Service, I am unable to find any reason which satisfies me why it should not be extended more to the legal branches of the Service than has hitherto been done in Scotland.

55,646. In the offices where the Secretary for Scotland and the Treasury have had a freer hand—I mean especially in the Register House Departments—appointment by competition has been introduced?—That is so.

55,647. If they had a freer hand in the other departments also, is it likely that system would be further extended?—I think that is a fair presumption.

55,648. In the case of the English legal departments, witnesses of weight have recommended to the Commission that the high appointing authority, which, in the case of the English offices is more often than not the Lord Chancellor, should be assisted by a committee who would scrutinise applications, and make recommendations to him with regard to candidates. Do you think that there would be any advantage in adopting a similar scheme in Scotland?—I think in Scotland you have to remember that you are dealing with a comparatively small sphere and with a comparatively restricted choice. Where new legislation involves an enormous sudden addition to the numbers of Civil servants in a particular sphere, I think, as has actually happened, it is reasonable, and even necessary, that a Minister should be assisted by a committee of the sort described. In dealing with the appointments which have been under consideration to-day, I am unable to see that any advantage would arise out of the appointment of such a committee.

55,649. From your review of the departments attached to the Court of Session, it would appear that there are a number of small departments or sub-departments, each generally with a statutory warrant for its existence, and without any common line of promotion between them all. Would there be advantage in combining those departments and making them into a single service?—I have considerable hesitation in speaking on that point. I do not think I have sufficient knowledge of the working of the internal organisation of the Court of Session to justify me in expressing an opinion.

55,650. You have told us that in the Register House Departments the ordinary Civil Service rules

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apply to a great extent as regards hours of attendance, as regards vacations, and as regards the age for retirements. Do you consider that those rules might be made of general application to the other legal departments?—As regards hours of attendance and vacations I hesitate to speak for the reason I have already given. As regards retirement, personally I am unable to see why legal officers should be placed in a different position from an ordinary Civil servant.

55,651. If, in the case of the local courts and the local staffs, the service were organised in a different manner, and the staff were made pensionable, would it not naturally follow that such Civil Service regulations as are applicable should apply there also?—I think so.

55,652. (*Mr. Graham Wallas.*) We have before us the reports of the Departmental Committee on Minor Legal Appointments, and another Committee on the Engrossing Staff. Could you tell us, in short, whether any of the recommendations of those committees have been carried out either by legislation or by administration?—So far as the Engrossing Staff goes the recommendations have, speaking generally, been carried out. So far as the recommendation of the Committee on Minor Legal Appointments goes, it has been partially carried out. I must beg to remind you that there are various reports appended to this report, and they do not always agree; there has been considerable difficulty in coming to definite conclusions, but in one important matter in which one of the members at least thought a reduction should be made, that reduction has been made by the abolition of one of the principal clerks of session.

55,653. But for the moment that is the only recommendation in this main Report upon the Minor Legal Appointments which, so far as you remember, has been carried out?—The only definite recommendation. On the other hand, of course, the recommendations of the committee have been kept in view, and various schemes have been proposed from time to time which have not come to maturity so far; but in making appointments the various recommendations of the committee have been kept in view.

55,654. Then there is an important memorandum on page 17 by Mr. Haldane. Could you tell us whether, speaking broadly, you are in agreement with that recommendation?—I am not prepared to give an opinion.

55,655. On page 11 of the Report of the Committee on Minor Legal Appointments, I want to refer you to a matter to which you have also referred in evidence. They say, as apparently a matter of common notoriety, "In this way all political appointments would be eliminated." Confining yourself to common notoriety, is it the case that each successive Lord Advocate, if he belongs to this or that political party, confines his nominations to members of that party. Is that the general custom?—I do not think that is the absolute custom, and it is within my knowledge that many appointments have been made by way of promotion. But, speaking generally, I believe the position is cor-

rect, that as a rule appointments made by a political party are made from members of that party.

55,656. What the Americans call the "spoils system" prevails?—I take that from you.

55,657. Is there any department of legal organisation in Scotland over which the Lord Chancellor has anything whatever to do?—No.

55,658. In Scotland he has no power?—He has to do with justices of the peace of course.

55,659. He appoints justices of the peace, but beyond that he has no functions?—In regard to none of the departments with which we have been dealing to-day.

55,660. (*Mr. Coward.*) What is the position of a Sheriff Substitute? What is his salary?—His salary roughly, extends from 700*l.* to 1,400*l.* a year.

55,661. That is a good deal less than the salary of our County Court judges?—I think his position may be defined generally by saying that he has wider duties, harder work, and less pay than a County Court judge.

55,662. Has not he concurrent jurisdiction in almost everything with the Court of Session in Edinburgh?—I do not think I should put it so high as that. I would prefer that you should address questions as to jurisdiction to a lawyer; but in certain matters of civil jurisdiction a litigant has a choice.

55,663. (*Sir John Kempe.*) I do not think we have had before us any statement of grievances from any of the Scottish legal departments, except the Engrossing Department. Do you know whether any grievances are coming from the clerks in those departments?—I am not aware of any.

55,664. They are satisfied with their pay?—I am not in a position to say that they are satisfied with it.

55,665. They do not complain of it, at any rate. Complaints do not come to the Treasury?—There was a recent committee which inquired into the position of the engrossing clerks in the Registry of Sasines, in 1913. That was the last occasion on which their grievances were referred to a committee, and various recommendations were made which have been carried out.

55,666. No doubt we shall hear more of that?—I think it is quite possible.

55,667. I see you do not pretend in the Scottish legal offices to put the fees at a sufficient rate to pay for the expenses, as they claim to do in England?—I have not gone into that question recently. I am afraid the figures are not before my mind at present.

55,668. For the Courts of Law, Vote 11, I see the estimated receipts are 58,000*l.*, and the cost of the department 69,000*l.*, without any of the Consolidated Fund charges, or the building charges, and so on. The Land Court does not pretend to pay its way. In England the Land Registry does something more than pay its way. The Scottish Land Court is not a registry, I suppose?—No, the Scottish Land Court is the successor to the Crofters Commission.

55,669. (*Sir John Kempe.*) I find I was generalising too much. The Register House departments do manage to pay their way on the whole.

Sir JAMES PATTEN MACDOUGALL, K.C.B., Registrar-General for Scotland and Deputy Clerk Register (accompanied by Mr. GEORGE AUGUSTUS JAMES LEE, W.S., Deputy Keeper of the Records), called and examined.

55,670. (*Chairman.*) What are the offices that you hold?—I hold at present the offices of Deputy Clerk Register, Keeper of the Records, and Registrar-General for Scotland.

55,671. How long have you held those posts?—I have held them since 1909. Prior to that I was Vice-President and Chairman of the Local Government Board for Scotland, which was constituted under the Act of 1894. I had been legal secretary to the Lord Advocate and I had been concerned with the passing of the Local Government Act of 1894, which was the Act which created parish councils in Scotland, and, on the passing of that Act, I was appointed legal member of that Board. I was legal member till 1904, I think, when I was promoted to be Vice-President and Chairman of the Board. Prior to 1894 I had been, as I

said, legal secretary to the Lord Advocate in two Governments—in 1886 and 1892.

55,672. As Deputy Clerk Register and Keeper of the Records you are at the head of the various departments which may be described as the Register House departments?—That is so. There is the General Register House which is concerned with registrations of title and is the Record Office proper. Then there is what we call the new Register House, which deals with the registration of births, deaths, and marriages, in which office the Registrar-General's work goes on. That is the distinction between the two. The two houses are adjoining houses.

55,673. You combine both offices in your own person?—I do so. According to statute, the Deputy Clerk Register is also Registrar-General without special

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appointment or additional salary. That is the provision in the Act of 1879.

55,674. This Commission is dealing at present specially with the Legal Departments; we shall be obliged if you will tell us what are the various departments under your supervision and what the work of each is?—In the first place, the work of the Record Department consists generally of the arrangement, classification, and cataloguing of the various classes of records. I may explain that the relation with the Sasines Office system is that I issue volumes from the Record Office which go to the Keeper of the Register of Sasines and he gets in the writs relating to heritable rights in Scotland, which are registered in these volumes, and, having been registered there, they come back to me in the volumes which are kept in the Record Office. So the two offices are very closely allied—in fact, the one follows from the other. The Keeper of the Register of Sasines is the person who frames the record, the Keeper of the Record is the person who keeps the record. Having been framed in the Sasines Office, the record comes across to the Record Office and is there preserved.

55,675. What records do you keep besides the records that come from the Sasines Office?—There are a number of Court records—what are called the processes, that is the Court proceedings—which all come down and are kept stored there.

55,676. Both civil and criminal?—Not criminal, but civil only.

55,677. Does that apply to the Court of Session only or to the local courts also?—That applies to the Court of Session only.

55,678. You have nothing to do with the records of the Sheriff Courts, for instance?—I have been for some time moving towards getting the Sheriff Court Records transferred to the Register House, because I dare say it may be known to some members of the Commission that very great dissatisfaction has been expressed in different centres in Scotland as to the state of the Sheriff Court Records. I have had experience myself—and attention has been called to it in Parliament—that now they have got into a very bad state; proper attention is not paid to them and the desire is to have them examined. They have been retained locally for a great number of years and they are falling into a state of very great disorder, and it is altogether very unsatisfactory. Sir Herbert Maxwell, amongst others, called attention to it only last year in connection with his county, and others have called attention to it in connection with their counties; and I think there is a general desire that something should be done to have those records transferred, as well as the Court of Session documents, to the Register House.

55,679. Would that require legislation to carry out?—Yes, I think it probably would. It is quite possible that the sheriffs themselves might have power to do it, but I rather think some legislation would be necessary. It is a doubtful point, and I should not like to commit myself about it.

55,680. Have you also the custody of any records which are not of a definitely legal character, such as records from the Scottish departments?—Yes, we have some. Only the other day I had occasion to have inquiries made about some old records relating to destitution in the Highlands—a vast number of papers connected with parliamentary inquiries in the early fifties. There are a great number of documents of that sort. Then we have certain Ecclesiastical Records for safe-keeping, including those of the recent Churches (Scotland) Act Commission.

55,681. Is there any system under which the records of the departments—for instance, the Local Government Board in Scotland—are transferred to your custody after a certain period?—I have heard that spoken of, but we have not yet got any of the Local Government Board Records. The Local Government Board is really only a creature of statute since 1894, and I do not think we have any of their papers yet; but they remain in the department. I think it is proposed that the Scottish Office should send papers to us, but not much has been heard of it lately.

55,682. There is no regular system about those departmental records?—No.

55,683. I gather that the bulk of the current records which you keep are legal?—Yes.

55,684. What is the work of the department in connection with those records?—They look after them, they have to catalogue and classify them, and they have to make them accessible to the public for search purposes. The public come there with the view, in the first place, of searching the titles and other legal documents. The staff of the Record Department is not large, and it is employed really in looking after those who come for searching purposes, and in the indexing and calendaring of those documents.

55,685. Are the records sufficiently and satisfactorily indexed and catalogued?—Yes, at any rate from 1781 onwards.

55,686. Are the indexes up to date?—Not quite, but they are up to date from the year I have stated. We now have power to increase the Index Department for the purpose of dealing with a number of old documents, and bringing them all up to date.

55,687. You have a special sub-department for dealing with the old records—the Historical Department?—Yes, the Curator of the Historical Department and his Assistant deal with the Historical part of the Record Office.

55,688. It will be convenient now if you will tell us what is the staff of the Record Department and of the Historical Department? The Historical Department, you say, has two officers only?—The Historical Department consists of two officers only.

55,689. What is the staff of the Record Department?—The staff of the Record Department consists of the Deputy-Keeper of Records, a chief clerk, a first class clerk, three second class clerks, a typist, the curator, and the assistant curator.

55,690. The last two being the officers of the Historical Department?—Yes.

55,691. (*Sir John Kempe.*) There are four second class clerks in the Estimates?—The fourth has not yet been appointed.

55,692. (*Chairman.*) What are the scales of pay of the first class and the second class clerks?—300*l.* to 400*l.* in the first class, and 80*l.* to 250*l.* in the second class.

55,693. Is that work which requires any legal or technical knowledge?—I think it certainly does in the Record Office; in fact, as the Commission probably knows, a legal examination is required at the present moment. Recently we had a change made and the provision now is, that in order to qualify for it and for admission to the staff of the Register House, the candidate must have the intermediate certificate of the Education Department or have passed the second general knowledge examination or substitutes prescribed for the Law Agents, and have served for five years in a conveyancer's office or the alternative of a university degree plus three years in a conveyancer's office.

55,694. Perhaps it will be convenient to deal with the conditions of appointment later. You have also the General Register of Sasines. What is the work of that department?—The work of that department is concerned with the registration of all deeds affecting real property in Scotland, its transmission and burdens, and the preparation of indexes, and what is known as the search sheets and the issue of such searches as may be asked from that department.

55,695. That department has a very considerable staff?—A very considerable staff.

55,696. What are the numbers and classification of that staff?—There is the keeper, 6 assistant keepers, one accountant, 6 chief clerks, 13 first class clerks, and 48 second class clerks.

55,697. The first class clerks and the second class clerks have the same scales of pay as the corresponding classes in the Record Department?—That is so.

55,698. Does that number include the engrossing staff, or is that a separate staff?—The engrossing staff are quite separate.

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55,699. For that staff some technical and legal knowledge is required?—Yes, for that staff, exclusive of the engrossing staff.

55,700. What is the work of the Register of Deeds?—The work of the Register of Deeds is confined to registration for preservation of personal deeds (such as wills and marriage contracts), the preparation of indexes, the issuing of extracts or officially certified copies, the principal deeds being retained and transmitted annually to the Record Department. Deeds may also be recorded for execution, as also may judgments of the English and Irish Courts of Law.

55,701. There is a difference in the procedure between the Register of Deeds and the Register of Sasines. In the case of the Register of Sasines the original deeds are not retained in the registry, but in the case of the Register of Deeds they are?—That is so.

55,702. The Register of Sasines consists of copies of the deeds?—That is so.

55,703. Whereas in the Register of Deeds both the original deeds and the copies are retained?—That is so.

55,704. In the case of the Register of Sasines registration is compulsory. In the case of the other deeds is it compulsory or voluntary?—Some of them must be registered, but as a rule it is voluntary.

55,705. Is registration in the Register of Deeds largely employed?—It is very largely employed. I inquired the other day, and I was told that it is more largely employed now, and that more wills are recorded than used to be the case; and also it struck me as a curious thing that there are more holograph wills than there were. People make their own wills more than they did; that is the experience in Scotland.

55,706. Are the great majority of wills made in Scotland recorded in the Register of Deeds?—I think so.

55,707. As regards marriage settlements and other deeds of a personal character, is it habitual to register them or not?—I am afraid I cannot say definitely, but I should think so.

55,708. You cannot form any estimate of the proportion of the total number of deeds that are registered?—Of the total number of marriage contracts recorded, and not recorded, I am afraid I cannot give any estimate. I can ascertain it if you like.

55,709. It would be interesting if some estimate could be formed. What is the staff of the Register of Deeds?—One keeper, one first class clerk, three second class clerks, and one typist.

55,710. The copying in this department is also done by a staff of engrossers paid out of a lump sum?—It is done by engrossers, of whom there are something like 20; but we have now got one woman typist, whose work is confined at present to the typing of extracts. We have not extended her duties to making the original transcript, but she prepares the original extracts, and also any others asked for. I am rather anxious to substitute typists, if possible, for the engrossing work.

55,711. You have also a small department called the Chancery Department?—Yes.

55,712. What is the work of that department?—The Chancery Department record and extract decrees of service of heirs. Their duties are very much restricted now compared to what they were in old days. They also deal with gifts or appointments under His Majesty's Sign Manual to various offices, such as Lord Lieutenants of counties, Lord Advocate, Solicitor General, and Sheriffs, remissions by His Majesty of sentences pronounced in the Criminal Courts, and other writs that pass under the Great Seal.

55,713. Has the question of abolishing that department or merging it in some other legal department been under consideration?—It has been under consideration for a great number of years, since the duties and work of the office became so restricted.

55,714. Has the head of that department held an interim appointment for a number of years?—That is so.

55,715. And the matter still remains under consideration?—Yes. It was very nearly carried through in 1881. The then Deputy Clerk Register, I suppose, did not want to multiply the offices that he had more

than he could help, and, I believe, it was owing to his desire not to do so that the thing fell through in 1881. Otherwise the duties of the office would have been placed under the Deputy Clerk Register.

55,716. The duties of the office are very small, you say?—Very small now, or comparatively small.

55,717. What is the relation of the Deputy Clerk Register to these various departments?—The Deputy Clerk Register has a general power to exercise superintendence and control over all other deputies, keepers, and officers within his office and department, and to carry into effect all the powers and authority that were by law vested in the Lord Clerk Register in regard to all classes of the public record.

55,718. Are you citing from the Lord Clerk Register Act 1879?—I do not think it is an exact quotation, but is a paraphrase from a report by a departmental committee. I have the words of the Act of 1879 here, "The Deputy Clerk Register shall have, save as otherwise provided, the whole rights, authorities, privileges, and duties in regard to the public registers, records, and rolls of Scotland, and the keepers and other officers thereof heretofore vested in the Lord Clerk Register, and shall exercise and discharge the same personally, giving regular attendance during the usual business hours for that purpose in Her Majesty's General Register House in Edinburgh."

55,719. What, in effect, do the duties comprise?—They comprise the custody and arrangement of all the registers permanently deposited in the General Register House, the superintendence of all persons official or non-official engaging in searching or examining the registers, the collection of the fees, and the power of issuing extracts or authenticated office copies of all deeds or documents in his custody. As head of the registration system in Scotland he has a further duty to confer with the court, formally or informally as occasion may require, regarding questions of difficulty; also to suggest and initiate and bring before the Secretary for Scotland any legislative changes for the improvement of the registration system in Scotland or the working of the Register House Departments.

55,720. (*Sir John Kempe.*) What is the meaning of the registers? What registers are they? Are they the Registers of Deeds?—Yes.

55,721. It does not refer to the Registrar General's Department?—No.

55,722. (*Chairman.*) The duties include the superintendence of the discipline and organisation of the staff employed?—Quite so.

55,723. Each of these departments has its own head, subordinate to you?—That is so.

55,724. That is to say, the Deputy Keeper of the Records, the Keeper of the Deeds Office, the Keeper of the Sasines Office, and the Interim Director of Chancery?—No, the Interim Director of Chancery does not really come within my jurisdiction. He is a court official. I have no control over him.

55,725. The Interim Director of Chancery is not under your control in any way?—No. I was asked to state what my views were about that office, but I have no control over it.

55,726. His office is located in the Register House?—Exactly.

55,727. But he is under the control of the Court?—Yes; he is not under my control, although I have certain small duties in connection with his office. There are a number of other departments located in the Register House, and that is one of them, over which I have no control.

55,728. In each of those departments is the detail of the work controlled by the immediate head of the particular department?—Yes.

55,729. In the case of the Register of Deeds and the Register of Sasines, you have told us that, after the registers have been prepared, they are transferred to your custody?—Yes.

55,730. Does it follow that when that transfer has taken place the arrangement for the searching of those registers and reference to those registers is under the direct control of the Deputy Keeper of Records and

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not of the Register of Sasines or Register of Deeds?—That is so.

55,731. What are the arrangements, supposing extracts or officially certified copies of any documents under your custody are required? Is it part of the duties of the staff to prepare such copies?—The staff prepare those.

55,732. Those would be prepared by the engrossing staff under the direction of the clerical staff, I suppose?—Exactly.

55,733. Now will you tell us about the appointment of the various officers; in the first place as regards your own office?—The appointment of Deputy Clerk Register dates from 1806, when it was instituted by Royal Warrant. The Deputy Clerk Register is appointed by the Crown and, by the common law of Scotland, and in virtue of the provisions of the 6th Section of the Act of 42 and 43 Victoria, chapter 44, the appointment is one that is held *ad vitam aut culpam*.

55,734. Is that because it is a Crown appointment?—Because it is a Crown appointment without any term affixed.

55,735. Is there no clause in your warrant of appointment fixing a term to the tenure?—In my warrant of appointment there is a limitation to the age of 70, to which, when I discovered what the opinion of the law officers of the Crown was on a case for opinion put before them, I took exception, because the appointment, according to the opinion of the law officers, is one which is held *ad vitam aut culpam*, to which no term can be applied. That 70 years of age limit had been inserted without my knowing really what the true position was, and I believe also without its being present to the minds of the Scottish Office.

55,736. Is it your opinion that that clause in your warrant is ineffectual for the purpose for which it was intended?—That is so.

55,737. Are there any legal qualifications laid down by statute for the office?—By statute, the holder of the office must be an advocate of 10 years' standing.

55,738. How is the Keeper of the Register of Sasines appointed?—By warrant under the sign manual on the recommendation of the Secretary for Scotland.

55,739. What is his tenure of office?—I believe it is a 70 years of age tenure, but I cannot say what the tenure of the present holder of the office is. The last holder of the office, who was promoted to another post afterwards, I believe had a 70 years of age tenure.

55,740. When you express the opinion that a clause in the warrant of appointment limiting the appointment to 70 years of age is ineffectual, does that apply to all Crown appointments, or only to certain appointments?—I am afraid I cannot speak as to that.

55,741. You have not considered the point except as regards your own office?—No, I have not considered the point. I believe the view taken by the law officers was that it was a *munus publicum*, according to the common law of Scotland, on which no limitation could be imposed. Besides that, according to the terms of the Act itself, it was an *ad vitam aut culpam* appointment, being a Crown appointment.

55,742. Was that opinion given with reference specially to that office?—With special reference to this office.

55,743. It was not a general opinion?—It was not a general opinion.

55,744. By whom is the Deputy Keeper of Records appointed?—By the Secretary for Scotland under the Lord Clerk Register Act, 1879, followed by the Secretary for Scotland Act, 1885.

55,745. What is the tenure of that post?—The ordinary Civil Service limit of 65 years of age.

55,746. And the keeper of the Registry of Deeds?—He is appointed by the Deputy Clerk Register, with the approval of the Secretary for Scotland, by promotion from within the Register House Departments, unless the Deputy Clerk Register reports to the Secretary for Scotland that there is no one within the department suitable to fill the post.

55,747. Are all other posts in this department, except those which you have mentioned, filled by com-

petitive examination?—The second class clerkships are all filled by competitive examination.

55,748. In whose hands are the appointments to all the other posts?—Promotion is in the hands of the Deputy Clerk Register.

55,749. But the original appointments?—They are in the hands of the Secretary for Scotland by the Act of 1885.

55,750. The Secretary for Scotland appoints, the duties of the Treasury in that respect having been transferred to him by the Act?—Yes, by the Act of 1885.

55,751. From the statements you have made, it appears that there is a very considerable variety in the method of appointment of the different officers. Is there any reason for those variations?—I confess myself I am unable to see that there is any real reason why they should be all so different. They are all sub-departments in the Register House, and I think that if one is to be a Crown appointment then the others ought to be also.

55,752. Is there any reason why they should be Crown appointments?—No, I do not think there is.

55,753. We heard this morning that in the Court of Session there are a larger number of direct Crown appointments, and the opinion was expressed by the witness who was before us, Sir James Dodds, that there was no necessity for having so many Crown appointments. I gather that you are of the same opinion, that the number of Crown appointments in the Register House need not be so large as it is?—I think so.

55,754. In the past, have the holders of the higher appointments in your departments been appointed from the department itself or from outside?—To most of the higher posts appointment has been from outside, and those people, though possessing professional qualifications, have frequently been appointed without any previous experience in the Civil Service, and I think it is very essential that they should have had administrative experience.

55,755. Then you would be in favour of filling these appointments by promotion from within the department rather than by appointment from outside?—I should, certainly. I should explain, perhaps, that the Keeper of the Deeds Office is always appointed from inside. I think in an office like the Keeper of the Sasines Department, where you have a very large staff, administrative experience is really very much wanted. It is not as though the Keeper of the Sasines Office were a person who had to formulate policies, or anything of that sort; it is purely administrative work.

55,756. If these appointments cease to be Crown appointments, by whom do you think they should be made?—I think they should be made on the recommendation of the Deputy Clerk Register, and, unless he reports to the Secretary for Scotland that there is no one competent in the department to fill the vacant post, I think the Deputy Clerk Register should make them from inside.

55,757. You suggest that the Deputy Clerk Register should recommend to the Secretary for Scotland, and that the formal appointment should be made by Secretary for Scotland?—I think so.

55,758. And that the normal method of appointment should be from inside by promotion from the staff of the department, and that it should be only in cases where there is nobody suitable within the department that you should go outside?—That is what I should advocate.

55,759. You think that that would be advantageous both for the work of the department and also as regards the position and prospects of the staff?—I think so; and the officers being all officers of the Court, it has always been from old days not only the theory but, I think, the practice that the Head of the Court should be concerned with the working of the Register House Departments and their supervision. I think it might be a matter for consideration whether the Lord President should not be consulted in regard to those appointments as being the head of the judicial bench.

55,760. A suggestion has been made to the Commission as regards the higher legal appointments in

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the English departments, that the high appointing authority, the Lord Chancellor, for instance, should be assisted by a committee to examine the claims and merits of candidates and to report to the Lord Chancellor, who would then appoint after considering their report. Do you think there is place for any similar system as regards the Scottish legal appointments?—I think if the Lord Justice General, the head of the criminal bench, and the Lord President, the head of the civil bench (and they are one and the same person) were charged with taking part in the appointment along with the Deputy Clerk Register as far as regards the Register House appointments, it would be sufficient.

55,761. You suggest that he should be consulted by the Secretary for Scotland as regards the departments of the Deputy Clerk Register?—I think so.

55,762. Do you suggest that he should be consulted with regard to the appointment of the heads of the different departments under the Deputy Clerk Register?—No, I think that might be left to the Deputy Clerk Register.

55,763. You think the Deputy Clerk Register's advice would be quite sufficient for the Secretary for Scotland in those cases?—I think so.

55,764. (*Sir John Kempe.*) So long as it is confined to promotions in the office, I suppose?—Yes.

55,765. (*Chairman.*) If there was a question of going outside the office, and if there was nobody suitable inside the office, would you then suggest the advice of the Lord President as well as of the Deputy Clerk Register; or in that case also, do you consider that the Deputy Clerk Register's advice would be sufficient for the Secretary of Scotland to go upon?—I think the Deputy Clerk Register would be only too pleased to have the assistance of the Lord Justice General and Lord President, and I think it would carry very much greater weight if the two were to agree.

55,766. You think it advantageous that he should be consulted when it is necessary to go outside the department?—I think it would be so.

55,767. Would you maintain a statutory qualification for the post of Deputy Clerk Register?—Yes, I think I would.

55,768. Is the legal experience and knowledge that would be possessed by an advocate of ten years' standing indispensable for the Deputy Clerk Register's duties?—I think the office of Deputy Clerk Register requires considerable acquaintance with the law of Scotland, and some acquaintance certainly with the conveyancing side of it. I think if anyone who was not a lawyer were to be appointed to a post of that sort, he would find himself with a great deal to learn.

55,769. (*Mr. Coward.*) Supposing he were a Writer to the Signet?—Of course then he would have considerable knowledge, too; he would be a lawyer. There is no reason why he should not be a Writer to the Signet.

55,770. (*Chairman.*) You would see no objection to extending the qualifications so as to include Writers to the Signet of a certain standing?—No, I do not think so. Of course my own feeling is that anybody to be appointed to a post of that sort ought to have previous administrative experience as well.

55,771. (*Mr. Coward.*) Probably a Writer to the Signet would have even more administrative experience than an advocate?—He would have more administrative experience perhaps, but not of the special work of a Government department.

55,772. Is it not the fact that in Scotland, as it is here, one son in a family will go to the Bar and another son will become a solicitor; it is a mere question as to which selects the one profession or the other, but they both have the same education to a very large extent?—Very often that is so, no doubt.

55,773. (*Chairman.*) You told us something about the appointment of the clerks. You mentioned that it was by competitive examination. Will you explain a little more fully the system?—The latest regulations which have been drawn up on the subject were only in March last. All candidates must be qualified either by the holding of the intermediate certificate of the Scottish Education Department, or they must have

passed "the second examination in general knowledge" or substitutes prescribed for those passing as law agents in Scotland; also they must have been for five years in the office of a conveyancer, or alternatively hold a university degree, or have passed examinations qualifying for it, and have been for three years in a conveyancer's office. I have not been able myself to understand the full meaning of the provision that a candidate must be either a graduate of a university of the British Empire or have passed examinations "qualifying him for a degree in a university of the British Empire."

55,774. What is the distinction?—I have not been able myself to follow that distinction. I do not know what is to prevent them taking the degree if they have passed all the examinations.

55,775. Is it a question of fees?—I do not know. I have not discovered what it means. Then, having qualified in that way, there is a competitive examination in two subjects—the law of heritable property in Scotland (including conveyancing) and English composition (including handwriting and spelling). They must pass in both of those subjects.

55,776. Is that a competitive examination amongst the candidates?—That is a competitive examination amongst the candidates.

55,777. What are the ages for admission?—From 20 to 25.

55,778. Is that system found to work satisfactorily?—So long as you have an examination of that kind, I think it does work satisfactorily.

55,779. Has the period of service in a conveyancer's office been increased recently?—Yes, it has been increased.

55,780. What was it before the last change?—It was two years before the last change.

55,781. So it has been increased from two years to five years in the case of those who have not a university degree, and to three years in the case of those who have a degree?—Yes.

55,782. (*Mr. Coward.*) Does a conveyancer mean a man at the Scottish Bar?—No, a conveyancer means a Writer to the Signet or a solicitor to the Supreme Courts or other practising Law Agent.

55,783. (*Chairman.*) It has been suggested by some witnesses that a man who has been engaged in legal work for some years, and who has finished his education some years previously, would find it difficult to do himself justice in an examination, because he has passed beyond the stage at which an examination is an appropriate method of testing his knowledge. Does the experience of these examinations confirm that or not?—I do not think so. I have not heard so.

55,784. You have not found the examination system criticised on that ground?—No, I do not think so; I have heard nothing of that. On the contrary, I think there may be a risk here of people who pass the law agents' examination with a view of becoming solicitors or Writers to the Signet, finding, in two or three years, that they are not succeeding as they expected, then saying, "We will go to the Register House." I am not quite sure whether that is very desirable.

55,785. You may get a class of men who do not see a prospect of success in the profession of the law?—Exactly. It seems to me there is a risk of that.

55,786. Judging by results, do you find that the men who actually come in by this system are the men who are wanted for the work?—I think so.

55,787. They are sufficiently good both in intellectual qualifications and in legal knowledge?—I think so.

55,788. Does this apply to all the three departments to which you referred?—To all three departments. At the same time I think if, in place of this examination, these posts were open to the ordinary Civil Service it is quite conceivable that the requirements might be obtained in other ways by their having to pass special examinations, after having passed the Civil Service examination and become Civil servants.

55,789. That is to say, if you had purely open competition without any qualification of previous service in a conveyancer's office, you might then teach them such

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legal knowledge as is required after entry?—That might be so.

55,790. And you might test that knowledge by examination after they had been in the office for a short time?—Yes. One knows, in the case of Civil servants, that they frequently attend classes which they think will assist them in their special work. For instance, in this Register House there are some of our people in the Record Office who attend Professor Hume Brown's classes with a view to acquiring knowledge which may be useful to them in the way of deciphering old documents and papers. They are always very anxious to take any opportunity of that kind.

55,791. (*Mr. Matheson.*) In that case you would appoint at a lower age?—Yes, those who pass the ordinary Civil Service examination.

55,792. (*Chairman.*) You would be prepared to take them from the ordinary second division examination?—Yes, I see no reason why that should not be so. Of course our staff is a very limited staff. If it was less limited, those coming in might be put to the junior work and be gradually collecting the knowledge necessary for the higher branches of the work. But with a small staff that is not so easy, and I think the fact of the staff being so small, particularly in the Record Office, justifies these special regulations.

55,793. Do you, on the whole, prefer the present system?—I think at present, yes. I think there is something to be said for a change in time, but I am not prepared to advocate it now, especially as we have just got our new regulations and are not able to see quite how they will work.

55,794. What is your average number of vacancies annually?—In all the departments probably five or six.

55,795. How is the engrossing staff appointed?—They are appointed by the heads of the different departments.

55,796. And they are paid by the piece?—Yes.

55,797. The conditions of their employment were the subject of an inquiry by a committee?—It has been the subject of inquiry on several occasions by committees. My own opinion as regards the engrossing staff is that the conditions of their work and employment are very unfortunate. They are attracted in early life by the fact that they can make a considerable income by writing, and of course they are much more able to do that when they are young than when they get into later age. They make their 140% or 150% a year by engrossing, but by very hard work, and then, when they find that physically they are not equal to it later on in life, they become very dissatisfied and are rather anxious to have their position bettered, and complaints are numerous. The fact is that they work now from 9 in the morning till 7 at night, and this goes on during the whole of their life. My experience certainly in the Register House is that penmanship is not at all what it was. I think that is the general experience, and I may say that it is my experience not only from the work in the General Register House departments, but also from what I see of the work in the Registers of Births, Deaths, and Marriages. If you compare the work in those registers of the present day with the old parochial registers of 100 years ago I think you will find that penmanship is deteriorating. That is a reason which seems really to make it very important that the whole position of the engrossers should be very carefully and seriously considered. I am very anxious to substitute typing for the engrossing work, and, as I said, we have introduced it to a certain extent. We have two typists in the Deeds Office employed only for the purpose of preparing extracts. We do not allow them to engross the deeds; but I should like to see their work extended, and I think that is really the remedy for the whole position. I was not consulted at the time of the last Departmental Committee dealing with the engrossing staff in the Sasines Office. The engrossing staff in the Register House, I should also say, may be moved from one department to another, and some of the engrossers in the Sasines Office are at the present moment employed in the Deeds Office, and *vice versa*; so that the whole staff ought to be considered from one point

of view. If typing were to be introduced into one section of the Register House, it might be done as an experiment to begin with; but I think it ought to be done everywhere.

(*Mr. Coward.*) Why should it not?

55,798. (*Miss Haldane.*) Are the two typists women?—Yes, women.

55,799. (*Chairman.*) Was the question of the method of preparing the registers considered by the recent Commission on Land Registration in Scotland?—It was considered by the Committee that was presided over by Lord Low, and then photography was proposed—photolithography, I think it was called. I think a Bill was introduced to give effect to the recommendations of that Committee, but Parliament thought differently, and I do not think the Bill got very far. All the legal bodies in Scotland opposed it, I think.

55,800. Lord Low's committee reported in favour of that system?—Yes, and a Bill was introduced but did not pass the Legislature. The legal bodies opposed it, I think, one and all.

55,801. Personally you would not be in favour of a photographic system; you would be in favour of typewriting?—I think so. That is what I have recommended. Two and a half years ago we prepared a scheme under which we proposed that the engrossing staff in the Deeds Office should be pensioned off. As the result of that scheme, we thought the Treasury would be saved, I forget exactly what sums, but considerable sums, in a very few years. That proposal has not yet been disposed of.

55,802. (*Mr. Coward.*) If typing were adopted you would have a better product?—A better product. I may say we had a very gratifying letter the other day from a very considerable firm of legal agents in Glasgow complimenting the Deeds Office upon their typing work. They had received a typed extract of some document, and they wanted very much to know how it was done, what the typing machine was, and all about it, as it was better than they could do themselves. They appeared to be very pleased that the system had been adopted.

55,803. (*Chairman.*) It has been suggested to us that typing has this objection for legal documents: that alteration is more easy in that case than in the case of written documents. Do you attach any importance to that objection?—I do not think so. I may say that I had a report from the Stationery Office to say that the work of the typists submitted was quite indelible, and might be trusted to last for all time. That was before I submitted this scheme that we drew up.

55,804. You are aware that typing is used in the Principal Probate Registry in London for the copies of wills, which are bound up in volumes and preserved there?—So I understand.

55,805. And it is also in use in the Land Registry for the registers of land?—I am pleased to know that. As has been suggested to me, it would be a great advantage for the searchers that the writing should be in one uniform type, which would facilitate search very much.

55,806. Then you would recommend the use of typing, both for the Register of Sasines and also for the Register of Deeds?—I think so. I do not see why, if it answers in the Register of Deeds, it should not answer in the Register of Sasines too; but I have only suggested it as regards the Register of Deeds at present.

55,807. You would suggest trying it in the Register of Deeds first?—That is what I should like to do.

55,808. In the Register of Deeds, as the original deed is retained in the office, there would always be a check on any possible alteration?—Quite so.

55,809. The present staff of engrossers are not pensionable?—No.

55,810. If a change of system is not made and the present staff of engrossers goes on, do you think they ought to be made pensionable, or that some pension system ought to be devised for them?—I think it would be quite possible to devise a scheme by which they might be pensioned off at once, if typing were introduced. I think the figures that we had before us showed that the thing was quite feasible. They are not young men as a rule, and I think it might quite well be

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effected. As another illustration of the work of the engrossers, I may say that I inquired the other day as to their holidays, and one of them informed me: "I get three weeks in the year, but I would much sooner not have a holiday, because, in order to keep up my earnings, I have to work so hard before and after I have my holiday that it does away with the good of it." It strikes me that their whole lot is a very unfortunate one.

55,811. In the three departments of which you have spoken, apart from the higher posts which you told us under the present system are filled often from outside, is there a regular system of promotion upwards from the lower posts to the higher?—That is so.

55,812. Does that arrangement suit the organisation and the work of the departments?—I think so, very well.

55,813. You think that is the right system?—I think that is the right system. The present Keeper of the Deeds Office came from the Record Office.

55,814. Is there any interchange of staff between the departments?—There is not very much interchange. As a matter of fact it is provided that there shall be interchange, but I do not think there has been very much recently.

55,815. The work of each department is somewhat special, I suppose?—That is so.

55,816. But if there was a block of promotion in one department and a rapid flow in another, that might be equalised by transfers between the departments?—Quite so.

55,817. In making selections for promotion, what is the weight given to merit and seniority respectively?—I think weight is given both to merit and seniority.

55,818. Do you often depart from the strict order of seniority?—I do not know of any case in which that has been done in the Record Office. There was one case, I am told, but I do not know of any more.

55,819. So, in practice, it really amounts to promotion by seniority?—It does.

55,820. Unless there was a case of glaring demerit—would it be correct to put it in that way?—I think so.

55,821. Does that apply to other departments besides the Record Office—to the Register of Sasines and the Register of Deeds?—It does to the latter, but in the case of the Register of Sasines, I understand there have been recent promotions of junior men over the heads of senior first class clerks. But I have not been consulted.

55,822. Do you think that promotion by seniority is the right system, or that more weight ought to be given to selection by merit?—If seniority does not provide a suitable way of making promotion, I think merit would certainly be taken into consideration at once. If there were no senior men who deserved promotion, I certainly think we should overlook them and take the more meritorious man, even though he were a junior. No occasion has offered for preferring merit to seniority, as far as I know, within recent years.

55,823. There has not been sufficient difference between the merits of the different men to make it necessary to select a man who was some places down the list, in preference to those who were above him?—Quite so. In the other department over which I preside, the Registrar-General's Department, I have adopted a different rule. There are different branches there, and you can select a man who is more suited for one kind of work than for another. I have done that more than once, but there is larger scope there.

55,824. Have you a much larger staff there?—No, not a much larger staff, but the work is very different. For instance, there I have the census to look after and its requirements, and outdoor examinership requirements; and there is searching work inside, and statistical work. Accordingly, there being all these different sub-branches in the Registrar-General's Department, one man naturally is more suited for one kind of promotion than for another. There I have given promotion frequently to merit, or rather a more suitable man is found among the juniors than among the seniors. It gives one opportunities of making promotions in that way.

55,825. Turning now to the organisation of your departments generally, have you any observations to offer to the Commission on that subject?—So far as the needs of the public and the legal profession are concerned, the present organisation, on the whole, is adapted to secure a rapid and efficient dispatch of business. The scheme by which the post of Deputy Clerk Register and Keeper of the Records is combined with the post of Registrar-General of Births, Deaths, and Marriages has not, I think, in practice, been a success. The work of the two departments is entirely distinct, as is recognised both in England and in Ireland; and as the work of both departments has enormously increased since 1879, it has become quite impossible for one official to fill both posts without necessitating a degree of delegation, which could never have been anticipated when the posts were conjoined. There ought to be a separate post of Registrar-General of Births, Deaths, and Marriages, with a salary attached to it, as in England and in Ireland; and there should be a head of the Record Department able to give his undivided time to the supervision of the work of the Register House Departments, and of the registration system.

55,826. Which branch of your work occupies the greater part of your time—the Register House work proper, or the Registrar-General's work?—I am very much afraid that the Registrar-General's part of the work occupies most of my time. It certainly has during recent years, when I have had the census. Since I took office my time has been largely taken up with the duties of the office of Registrar-General of Births, Deaths, and Marriages, first with the Census of 1911, and then with many questions under the Old Age Pensions and Insurance Acts—duties requiring immediate attention and not admitting of delay, and I have had to rely very largely on the loyalty and discretion of the subordinate heads of the other departments.

55,827. Do you consider that that has made it necessary to delegate your duties to an inconvenient degree?—Certainly. Personally the work of the Deputy Clerk Register appeals to me very much more than that of the Registrar-General, because it is more interesting work altogether; and I can only imagine that when it was originally arranged that the Deputy Clerk Register should undertake the work of Registrar-General without separate appointment or salary, it must have been conceived by the Legislature that the Registrar-General had nothing or very little to do. Since then things have very much altered.

55,828. (*Mr. Boutwood.*) How long ago was it that the two offices were conjoined?—It was in 1879. Prior to that there was a Lord Clerk Register, and the Lord Clerk Register was a paid official with 1,200*l.* a year, and he presided himself over the whole Register House. There was a Deputy Clerk Register, and in those days he was also Registrar-General, so the conditions were different then. Then, when the office of Lord Clerk Register was abolished, the Deputy Clerk Register was left to do both the work of the Lord Clerk Register, the Deputy Clerk Register, and the Registrar-General, which is really almost more than it is possible for him to do. For instance, I have two houses, and two separate official rooms, and I have to be very much in the Registrar-General's room because there is constantly need for my attendance there, and the work is increasing very largely. Of course the searching which was necessary in the case of the Old Age Pensions Act I had to supervise. Then we have taken over from the Local Government Board recently the statistical work in connection with vital statistics in Scotland. Having been in the Local Government Board myself and Vice-President there, I was extremely anxious that the vital statistics of Scotland should be put on a much more satisfactory footing than they were; and, having the registers in the Registrar-General's department and being able to get the statistics of the births, marriages and deaths at first hand, I thought we had better arrange to take over that work from the Local Government Board who had to depend really on statistics which were not at all so accurate as those we were able to use at first hand. That, of

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course, created a considerable addition to the work. There were many other matters in connection with old age pensions. Where the information as to the age of applicants was not to be got from the ordinary sources, we opened up the Census of 1841 and 1851 in order to ascertain the ages of those whose ages were not to be found elsewhere. That was another new branch of work, and several other things led to a considerable increase of the work of the Registrar-General's Department, and a considerable increase in the staff too.

55,829. (*Chairman.*) Your conclusion is that the two offices ought to be separate?—I think they should be separated on the next occasion of an appointment.

55,830. Are you satisfied with the position of the Deputy Clerk Register in relation to the other departments of the Register House, or is any change required there in your opinion?—I think the Deputy Clerk Register should have full control over all the other departments in the Register House. The system is one that ought to be under one head, and, I think, all departments ought to be under the Deputy Clerk Register. It is the only proper administrative method that I can see, and it always has been so until recently.

55,831. Has there recently been some difference of opinion as to the exact relations between those other departments and the Deputy Clerk Register?—There has.

55,832. It is perhaps unnecessary for the Commission to go into the exact nature of the differences of opinion, but we should like your view generally as to whether any change in the relations is required, and whether the Deputy Clerk Register's control should be made more complete?—If it is not now complete I think it ought to be made so, but I should myself be perfectly satisfied with the opinion which has been expressed by the Head of the Court, in the recent case of Macdonald, as to the position, with regard to which he had no doubt and expressed himself to that effect.

55,833. What is the procedure with regard to matters of discipline in the departments?—Matters of disciplinary control are, under the Secretary for Scotland Act, committed to the Scottish Office.

55,834. Supposing there was a case of discipline in the Sasines Office on which the person concerned appealed to the Secretary for Scotland, would that appeal pass through you or not?—As a matter of fact, I do not think it does so pass at the present moment.

55,835. Do you think it ought to?—I think it ought to.

55,836. In the Record Department would it pass through you?—Certainly, I think so.

55,837. And in the case of the Register of Deeds would it pass through you?—Certainly.

55,838. In those two departments do all communications from the Scottish Office come to you and not direct to the head of the department?—Yes, certainly.

55,839. But in the Registry of Sasines, does the Scottish Office communicate direct with the Keeper of the Register of Sasines?—I understand that is so, recently.

55,840. Coming now to the question of the conditions and rules of the Service, what are the hours of attendance in your office?—They are from half-past 9 to half-past 4; on Saturdays to 1 o'clock.

55,841. Are the hours regularly kept?—Yes, I think so, and there is a good deal of overtime.

55,842. Is the overtime paid for or not?—Sometimes, yes; and sometimes, no. When I am talking of overtime, I may say that some of the staff are now on service and have enlisted, and the rest of the staff have been behaving most loyally and working extra time gladly to make up for those who are away.

55,843. Would that extra time be paid for as overtime or not?—In some cases it is paid for. In the Registrar-General's Department it is not, in some cases.

55,844. How is it determined whether it is paid for or not?—In one case there was money available to pay for overtime, because we had not got a clerk who had been estimated for. That is how it is done. It is not an additional charge, and we are permitted to do that.

55,845. Are there attendance-books kept, in which the staff enter their hour of arrival and departure?—Yes.

55,846. Are all the officers pensionable except the engrossing staff, about which you have already told us?—That is so.

55,847. Are they subject to the Civil Service rules as regards retirement?—Yes.

55,848. With the exception of the direct Crown appointments?—Quite so.

55,849. Do you consider that any further amalgamation of the different departments would be desirable, or is the present arrangement satisfactory?—I do not say there is any cause for amalgamation.

55,850. You think it desirable to keep the Register of Sasines and the Register of Deeds separate?—Yes, I think so.

55,851. It would not be convenient to have them under one head?—I do not think so.

55,852. You said you thought the Chancery Office might be transferred elsewhere?—Yes, I think the Chancery Office might be.

55,853. The two suggestions that have been made are to place it under the control of the Deputy Clerk Register, or else to transfer it to the Extractors Department. Are you prepared to express an opinion on which would be the better course?—I do not know what the Extractors Department really has to do with it, except that the Extractors Department is purely a court department. It extracts the interlocutors and judgments of the Court. The Chancery Office is an office which deals with the service of heirs—questions of heritable succession. I myself have not been able to see what the one has to do with the other, except that I think there was a vacancy in the Extractors Department and it was suggested by some one that possibly it was a case for amalgamation; but as between the two offices I do not think there is very much in common or any reason why the Chancery Office should be handed over to the other at all. I cannot follow it.

55,854. Then you think it better that it should be placed under the Deputy Clerk Register?—This was originally contemplated by the Treasury Departmental Committee, consisting of Mr. Gurdon and Mr. Morton, which sat in 1881, I think, and made that recommendation very strongly; but, as I mentioned before, it fell through owing to the reluctance of Sir Stair Agnew to take it on.

55,855. (*Mr. Matheson.*) Can you tell us how the Keeper of the Register of Sasines is appointed?—He is appointed by warrant under the Sign Manual on the recommendation of the Secretary for Scotland.

55,856. Is the Curator of the Historical Department appointed in the same way?—He is appointed by the Secretary for Scotland.

55,857. I notice there is an allowance for publication of calendars, chronicles, and so on. I suppose that refers to the Historical Department?—Yes.

55,858. Does it rest in the discretion of the Curator what he shall publish, or who decides that?—It is decided, on the recommendation of the Curator, by the Deputy Clerk Register.

55,859. (*Mr. Shipley.*) Am I right in thinking that you work at the Scottish Office in London?—No, I work in Edinburgh.

55,860. Are the offices there well adapted for your work. Are they well lit, well ventilated, and so on?—Yes.

55,861. And is there plenty of room?—The buildings of the Register House in Edinburgh are very large, but in the new buildings there are several offices with which I have nothing to do; they have apartments there. At the present moment, owing to the fact that the work of the Registrar-General's Department is increasing very largely, I am negotiating with the Woods and Forests Office to get them to remove the Receivership of Crown Rents Office, which is under them, in order to give me more room.

55,862. Are there plenty of lifts in the building?—No, there are no lifts; there was a proposal to have a lift.

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55,863. (*Miss Haldane.*) With regard to the engrossing staff, do I understand that you think the whole of the engrossing work might be done by a staff of women?—I do not know why not. I should like to see how the two women typists we have there now are getting on. I should not like to commit myself to saying that it could be done by a staff of women, because I am told some of these documents and wills that come in are extremely difficult to decipher.

55,864. We have had a certain amount of evidence to the effect that women have been found to be rather clever in deciphering. I believe the classes of the historiographer which you mentioned are attended by women for that purpose?—I may say that my experience of the typists at the Register House is extremely good, but I should not like to commit myself to saying that all the typing could be done by women until I have more experience.

55,865. You mentioned that a Glasgow firm was very pleased with your typing. That goes to show that women can do that work?—That is so.

55,866. In fact, supposing things go favourably, there is no reason why there should not be a women's department entirely?—I do not see any reason why not.

55,867. (*Mr. Coward.*) Upon the subject of typists, I suppose you have probably tried both men and women typists?—Yes.

55,868. Have you had any experience of men typists?—Yes.

55,869. Is it not your experience that women do that class of work very much better than men?—My experience certainly is so; but I have had much more experience of women than of men at it. I have one most excellent typist—no one could possibly do things better—and if they were all as good as she is I should have no hesitation in saying so.

55,870. I would suggest to you that it is the kind of work that lends itself to a woman's hand?—Quite so. I am reminded that we have women indexers also in the Register House department doing the indexing work.

55,871. (*Chairman.*) Which department are those in?—In the Record Office. The work is paid for out of a special grant.

55,872. (*Mr. Coward.*) You have the general control of all these offices, as I understand?—Yes.

55,873. I should like to ask you, candidly, do you feel that you can exercise there an effective control, or is it only in name?—I think I exercise an effective control. I do not mean to say that I am in each office every day, or that kind of thing. I have to depend to a large extent upon my staff, and they are extremely good.

55,874. You must do that, but you can tell us, better than we can form an opinion otherwise, as to whether it is effective control or not?—I think I may say definitely that it is effective.

55,875. I suppose there are such things, even in Scotland, as clerks who, instead of doing work, are not averse to having a look at a paper and doing that sort of thing instead of their work, and idling. Would that class of thing be brought before you?—I think I should know about it in the long run, certainly.

55,876. If a clerk would do that sort of thing and the work of the office has to be done, it necessitates the introduction of another clerk to do the work that the idler should do, does it not?—Quite so.

55,877. Therefore you may very well get, without really good control, a multiplication of clerks in an office; that is to say, you may get 20 clerks doing the work that ought to be done by 10. Is not that right?—That would be so, of course, if they shirked their work.

55,878. Effective control is the factor without which the discipline of the office cannot go on. Is not that right?—Quite right, I think.

55,879. With regard to the copying clerks, I gather you agree that to keep a man employed from 9 o'clock in the morning until 7 o'clock —?—We do not keep them; it is they themselves who stay.

55,880. A clerk who is employed like that, and who has to go for a vacation at his own cost, is somewhat badly used, is he not?—I think so, very.

55,881. I was going to suggest a remedy, if you will kindly follow me. Supposing you gave that clerk a regular salary, the natural incentive to him, if he got a regular salary, would be not to do as much work as he would do if he were doing it by piece-work?—Certainly.

55,882. But supposing you had this kind of control over him: "We expect you to engross or to copy so many folios per day, and if you do that nobody will quarrel with you; but, if you do not do it, we shall think you are a slacker and shall exercise discipline," would not that do? You would give the clerk a salary instead of paying him by piece-work, but you would ensure that he did the work that he ought to do, and then you would give him a holiday and give him his pay at the same time?—That is what the engrossers have been struggling to get for many years. They want to be put on a different footing altogether.

55,883. Do you happen to know what is done by the writers in Scotland? Is not that the way they treat their clerks?—There is little engrossing work except in the Government departments. If you go into an ordinary lawyer's office you will find very little engrossing of that sort now; it is all done by typewriters. That is the reason why a number of these people come to the Register House, and probably it is the case in England, too. They say: "We are attracted by this; we can make 130*l.* or 140*l.* a year. We cannot make 70*l.* or 80*l.* in an ordinary lawyer's office; we will go to this place where we can make double." They come there and find to their cost, after they get to 40 or 50 years of age, that they have made a very bad choice.

55,884. (*Chairman.*) You find that the use of type-writing is extending rapidly in lawyers' offices?—Rapidly, I think.

55,885. (*Mr. Coward.*) In Scotland are original wills typewritten or are they copied by hand?—I think the law agents and the solicitors now, if employed to make a will, have it typed. It is all typing-work in their offices now.

55,886. You were talking about the question of the qualifications for the various offices. Do not you think there is a little question about that five years' qualification? Do not you find by experience that, from among the people who acquire that five years' qualification, you get a great many applicants who have not been successful during the five years they have been at work?—I gather that you think the five years is too long.

55,887. What I mean is, that the five years, or any period, does not really give you the qualification of a man. Supposing, for instance, a man goes to the Bar here and he does not succeed; he has nothing in the wide world to do. If he stops at the Bar he may go to tennis parties or anything he likes; but he has been five years at the Bar and he is qualified for this, that, and the other post. That is not a very good qualification, is it? The fact of his having been called for five years is no qualification, or need not be any?—No. I suggested that possibly there was some objection to that qualification in this way, that it is those sometimes who have failed in their profession who take to this work afterwards as a *dernier ressort*.

55,888. That is what I suggest. Somebody might apply because he felt that he was not strong enough at the Bar. On the other hand, if a man is at the Bar and is successful, he probably would never seek an appointment in a Government office at 100*l.* or 200*l.* a year?—No.

55,889. (*Sir John Kempe.*) The scheme of examination that you put before us as now adopted is very much what you suggested in a memorandum put before a Commission a year or two ago?—I think that is so.

55,890. You seem now to have a more or less open mind as to the mode of entrance into the clerkships?—Yes.

55,891. This scheme of yours seems to be intended to ensure particular qualifications for this office, and

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not merely to ensure ability. It is rather intended *ad hoc* for these particular offices?—Yes.

55,892. What class of clerks do you get? I understand that they are men who have studied law to a certain extent, but you rather suggested that even a second division clerk might rise if he had time to study?—Yes.

55,893. Are the clerks you get of a higher class than the second division clerks now?—No; I should think they are very much the same type of man with this additional legal knowledge.

55,894. They are not better than the second division clerks?—No; I think very much the same.

55,895. Do you find men who have passed as second division clerks try to get into your office? It is better pay than the second division clerks get?—They cannot come in without having passed this examination. I do not think we get any second division clerks coming in by passing this examination. It is the men who come through a lawyer's office.

55,896. One would expect you to get a better class, because it is a better prospect than the second division?—I do not think I can say that it is a better class.

55,897. Was your scheme intended with a view to what you mentioned just now, namely, to provide men suitable for promotion in the office rather than to ensure general intelligence. You want to get men who will be fit to rise in the office by and by?—Yes. The men in this department are handicapped in a way, because, of course, they are confined to the department and cannot go out of it, and cannot get Civil Service appointments outside because they are a special class.

55,898. But you want to get them for the higher appointments in the office, and to ensure good enough men for that you put on this rather higher class of examination?—Quite so.

55,899. For those higher appointments you are rather aiming at symmetry—to have the heads of the different offices appointed on the same principle?—Yes.

55,900. As to the higher appointments, are the headships open to the clerks as well?—Certainly. The present head of the Deeds Office was in the Record Office. He has risen from the Record Office to the head of the Deeds Office.

55,901. But when you wish to secure more symmetry in the mode of appointment, is it because you are dissatisfied with the results at present? Do you think that the variety in modes of appointment has hurt the general efficiency of the office?—It is more because I do not see the reason for the distinction between the three modes of appointment. I think they should be all appointed in the same way.

55,902. It is merely with a desire for symmetry?—The one reason is a desire for symmetry, and I think it means better administration.

55,903. You could not secure what you want, that is to say, men fit for promotion in the office unless you had them all appointed in the same way?—I do not think it would be so easy.

55,904. (Mr. Boutwood.) I think you said one of the subjects in that examination was conveyancing?—Yes.

55,905. What sort of examination is it; is it merely elementary or something more?—It is an examination in the general law of conveyancing in Scotland. I cannot say whether it is a very stiff examination or not. I do not think it is an elementary examination. I think he must have a considerable knowledge of the law of real property.

55,906. It is a substantial examination?—It is a thoroughly substantial examination.

55,907. (Sir John Kempe.) With regard to the work done by the clerks, is it highly professional or technical?—I think it requires legal knowledge.

55,908. Is much of it clerical? Is it the kind of work that an intelligent man could come into the office and learn from the bottom and become fit to rise without having had any professional experience outside?—I may give an illustration of that in the Sasines Office. Deeds come in and then they have to be abstracted. There is a regular system of registration, and there is a search sheet. Anybody who wants to find out what the burdens upon a certain property are, looks at the search sheet, which is an abstract of what appears in the original deeds as to the burdens and all the rest of it. That abstract has to be done by the clerks, and it requires a certain amount of legal knowledge.

55,909. Is that work done by the clerks at the bottom in the second class?—Yes.

55,910. Is that the lowest form of work they have to do? I suppose there is a great deal of inferior class of work to be done?—Yes.

55,911. Some purely clerical work?—Some purely clerical.

55,912. Filling up forms and so on?—Yes.

55,913. And would there be enough of that inferior class of work to occupy all the second class?—No, there would not be enough of that to occupy the whole of them. It must be distributed.

55,914. They have to do all kinds of work?—Yes.

55,915. (Chairman.) Is the work of the Sasines Office done at all through the Post. Can a deed for registration at the Sasines Office be sent by post?—Yes, country deeds are sent by post.

55,916. And returned by post?—And returned by post.

55,917. In the same way in the Registry of Deeds, can a deed be sent by post, and a certified copy returned by post?—Yes. In the Sasines Office there is a presentment book where an entry is made at once, because priority is of importance. Say there is a mortgage on property and it is sent in for registration, the date on which it is received has to be entered at once in the presentment book. That is the first stage.

55,918. You have suggested that women might be employed for typing, and that the use of typing might be extended. Are there any other directions in which the employment of women might with advantage be extended? You mentioned, for instance, that women were employed on some of the indexing work. Are they employed at all on the indexing of ancient records?—Not at present, except in a very small way*.

55,919. Is there an opening for employing them there? Would there be any advantage in employing them in that work?—I do not see why not. I may illustrate that by saying that in the Registrar-General's Department, two or three days ago, three of the staff were extremely anxious to be allowed to enlist; I got leave for them, and I am replacing them by two typists. I am told that I shall have great difficulty in getting the work done—I do not believe it myself—but they are to do searching work for those who are getting extracts and certificates from the old registers. I hope it will be a success.

55,920. No corresponding work of that kind is done by women at present in your departments?—No.

55,921. So that is a new experiment?—Yes, it is a new experiment.

* They have recently been employed to do some indexing from 1668 in the Deeds Office, as a test.—J. P. M.

ONE HUNDRED AND THIRTY-FOURTH DAY.

Wednesday, 19th May 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.
 Sir JOHN ARROW KEMPE, K.C.B.
 Mr. ARTHUR BOUTWOOD.
 Mr. JOHN ROBERT CLYNES, M.P.
 Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.
 Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
 Mr. PHILIP SNOWDEN, M.P.
 Mr. GRAHAM WALLAS.
 Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. EDWIN ADAM, K.C. (Principal Clerk of Session), called and examined.

55,922. (*Chairman*.) Mr. Adam, you are Principal Clerk of Session?—I am.

55,923. How long have you held that office?—Since 1907.

55,924. What had been your experience before you were appointed to that office?—I am a Master of Arts and Bachelor of Laws of the University of Edinburgh; I am an Advocate of the Bar of Scotland since 1885; I was Advocate Depute under the Lord Advocate from 1905 to 1907; I was appointed Principal Clerk in 1907 and King's Counsel shortly afterwards.

55,925. We have already had in evidence a general statement of the constitution and jurisdiction of the Court of Session; we will not, therefore, ask you to enter into particulars as regards that. Will you be good enough to tell us, first, the nature of your duties as Principal Clerk of Session?—The Principal Clerk of Session is responsible for the records of the Court, and he acts either personally or by the depute, assistant, and ordinary clerks of Session. He is entrusted under the Lord President with the supervision of these officers, and also of the clerks in the Bill Chamber. The records of the Court under his charge fall under the heads of the Books of Sederunt, the Minute Book, and the processes in the various proceedings in the court. The first of these are under his personal supervision, and in this matter he is assisted by the depute clerk in the first division.

55,926. That is to say, the Books of Sederunt?—The Books of Sederunt.

55,927. Those books contain a record of decisions of the Court on matters of procedure, do they not?—No; the Books of Sederunt contain the Acts of Sederunt, properly so called. These are legislative Acts by the judges, either under their common law powers or their statutory powers. They also contain all the warrants of installation of the various officers of the court, judges, advocates, macers, and Crown officials, and the takings of the oath by the various Crown officials are all entered in the Books of Sederunt.

55,928. Do they also contain rules made by the Court for the regulation of its own procedure?—That is so.

55,929. The method by which the Court lays down rules or makes alterations in its own procedure is by Act of Sederunt, is it not?—That is so.

55,930. What is the Minute Book?—The Minute Book contains the orders and judgments of the Court in litigations and all proceedings before the Court; it includes warrants of intimation of petitions and all decisions in the different cases; those all pass through the Minute Book, as the public record and the public intimation of any act, decree, or warrant of the Court.

55,931. That record is published?—That record is printed and published.

55,932. Is it under the charge of a special officer?—Yes, there is a Keeper of the Minute Book, who is assisted by clerks.

55,933. Is he under your supervision?—He also is under my supervision.

55,934. You mentioned, thirdly, processes. Will you tell the Commission exactly what the processes are?—

The process contains the first writ instituting the proceedings—it may be a summons or it may be a petition; that is lodged by the party raising the process with the clerk of the Court along with an inventory of process, a duplicate inventory of the process, the productions that he founds on and inventories of the productions. Of course, in the different sorts of proceedings the processes would be found to be of very different natures, but these are the main writs in the process.

55,935. Would it be correct to say that the process is the file of all papers necessary for the current conduct of the case?—That would cover it, I think.

55,936. The process forms a record of the different steps in the procedure, the pleadings on each side, and any documents produced in the case?—And I should have included the interlocutor sheet, which gives the record of the judges' decisions in the case or the judges' orders.

55,937. Any intermediate decisions and the final decision?—All the decisions from the warrant; it may be ordering intimation if it is a petition. There is no such warrant if it is a summons. That warrant is granted by placing the signet on the summons.

55,938. Are the processes in your charge?—I am responsible for the keeping of the processes with the assistance of my staff.

55,939. So long as the case is still current?—Yes, that is so.

55,940. When the case ceases to be current, what happens to the process then?—In an ordinary case the process has to be transmitted to the custody of the Lord Clerk Register, in the person of the Keeper of the Records, who is a separate official who is not under my charge.

55,941. So long as the case is still alive, the process remains in the custody of one of your officers?—That is so.

55,942. And is produced as required in court by him?—Yes. I may say that if at any time we require to get a process that has been transmitted to the Keeper of the Records there is a proceeding by which that is attained.

55,943. Then there is also the Extractor's Department?—Yes, the Extractor's Department puts the final decision of the Court into the form in which the party who has obtained that order may put it in force as the law requires, either by putting it into the hands of a messenger-at-arms and using diligence upon it or recording it in the appropriate register, it may be of Sasines if it is a heritable decree, a decree regarding landed property.

55,944. Has the Extractor to draft a fresh document, or has he merely to copy the record which is already entered in the interlocutor sheet?—He has practically to interpret to a certain extent the technical terms, like pursuer and defender, which would alone appear in the interlocutor sheets; he has to write in full the names and designations and form it, so that in itself it is an intelligible warrant. It is not mere copying.

55,945. Does that involve changes in the form of the document, or only the insertion of such particulars

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as are necessary to make it intelligible independent of other records?—I should say that he would not change the form further than was necessary to make it completely intelligible. Of course, on the interlocutor sheet of the particular process it is quite intelligible in itself; but when it leaves that process it has to get put on it the necessary information that is contained in the fact that it is in the process. I think that will pretty well cover it. It is very technical matter.

55,946. Is it a matter that requires considerable legal knowledge, or is it a matter more or less of form?—That is a matter that the Extractor would be better able to tell you than I am, because extracts do not pass through my hands; practically when it is submitted to the Extractor it has passed out of my purview; but I should say that it requires a good deal of legal knowledge to be able to put it into proper legal form, and it would be a very dangerous matter for a layman to try to turn his order of court into a warrant to be put into the hands of a messenger-at-arms.

55,947. I find in the evidence of Mr. Thomson, before the Committee on Minor Legal Appointments in Scotland, the following passage on page 27, in the first column. Mr. Thomson was giving reasons to show that the framing of the extract sometimes involves examination of numerous documents and even discussion with the agent. "The interlocutor ran, 'The Lord Ordinary grants the special powers craved' (it was a note by a judicial factor for special powers). On referring to the prayer, the Court was prayed to 'sanction the said agreement.' On reading the narrative of the petition, I found about four pages of print taken up with detailing long negotiations by correspondence and interviews, and ending up with the sentence, 'The terms of the agreement are contained in the copy correspondence herewith produced.' The construction of an extract in the case of such an interlocutor was rather a problem. It was done by sending for the agent, and adjusting with him the partial narrative taken from the petition, which made it intelligible." In a case like that it would appear that the extractor's work did involve a considerable amount of intelligent abstraction from other documents?—Quite so.

55,948. Would cases of that kind be frequent or exceptional?—Very frequent; I should say almost the rule. In ordinary form we grant a decree as craved.

55,949. It would always involve examination of papers to see exactly what the decree as craved was?—That is so.

55,950. To return to your own duties, what are your duties as regards attendance in court?—The Principal Clerk of Session has to be in court unless his duties call him elsewhere.

55,951. Which court do you attend?—At present, by arrangement with the Lord President, I sit in the First Division Court, where I am in touch with my immediate superior, the Lord President, and also in touch with the Books of Sederunt and the other matters that I am specially called upon to attend to. Of course sitting there I am also available at once for consultation by any of my deputes who want advice of any kind.

55,952. We have been told by a previous witness that you have depute, assistant, and ordinary clerks. Will you tell us what their duties are?—The depute, assistant, and ordinary clerks are, under the Principal Clerk of Session, responsible for the clerking in the various courts. They are responsible for the custody of processes, for the proper fee-funding of the various steps of process, for the proper marking and borrowing of process. The assistant and ordinary clerks are primarily responsible for attendance in the offices at the Register House, but may be required to attend in court when not required at the Register House. The deputes' primary duty is in court, but they also require to relieve the assistant or ordinary clerks of attendance at the office during a part of each vacation. The assistant and ordinary clerks also enter in the Minute Book the orders pronounced in their respective courts for insertion in the Minute Book. They also compile the annual statistical returns for their court.

55,953. You told us that the Minute Book is in the hands of a Keeper of the Minute Book?—

Yes. When an order has been pronounced in any of the courts, it goes down to the Register House to the office of that court. Assistant and ordinary clerks are just the same; they are assistant clerks in the Outer House and ordinary clerks in the Inner House, but their functions are practically the same. When an order goes down to that office the duty of the assistant or ordinary clerk is to make an abstract of that order in form to appear in the Minute Book, and the draft that he has made is transmitted to the Keeper of the Minute Book.

55,954. So that it is the assistant or ordinary clerk who is responsible for the form of the minute as drafted in the Minute Book?—That would be so, unless the Keeper of the Minute Book took exception to the form, in which case I presume it would come up for my determination; but that has not occurred in my time.

55,955. I gather from what you say that the deputes do not attend at the offices of the Register House except in vacation?—As a rule they do not. Some deputes, I believe, go down and superintend the making up of the bag for the next day; they will do so if there is special pressure, and they think their assistant requires any aid; but that would be exceptional.

55,956. Then there is also the Teind Office; how far is the Teind Office under your supervision?—I am not at all sure. The Teind Office is to a certain extent self-contained; at present it is under the care of an Interim Clerk of Teinds. I understand he has put in a statement of the position of the Teind Office, which I have handed in as an appendix. He also gave a very full statement of the position of his office before the Departmental Committee in 1911, which might also be referred to.

55,957. We have been told that that is a very small office dealing with very technical and intricate matters?—That is so.

55,958. I gather from what you say that it works practically independently of you?—Yes, practically independently of me.

55,959. Coming now to the Bill Chamber, will you tell us what the work of the Bill Chamber is?—The work in the office of the Bill Chamber may be divided first into original Bill Chamber proceedings, suspensions, suspensions and interdicts, &c. These are equivalent to injunction proceedings, I understand, in the law of England.

55,960. Urgent matters requiring an interim order prohibiting certain action pending trial of the case?—That is so. Then there are Bankruptcy proceedings, including appeals in Bankruptcy; that, of course, is a very large and important department.

55,961. Are the whole of the Bankruptcy proceedings that come before the Court of Session dealt with in the Bill Chamber?—Yes, so far as they are Bankruptcy proceedings they are dealt with in the Bill Chamber.

55,962. There are various other miscellaneous kinds of work which have been assigned to the Bill Chamber and are dealt with by the Junior Lord Ordinary?—That is so.

55,963. We have already heard what the staff of the Bill Chamber is. Will you tell us how far that office is under your supervision?—That office is under my supervision to the same extent as my own clerks of Session are; it was brought in, in the same terms as my own clerks under my supervision, by the Court of Sessions (Scotland) Regulations Act, 1889, 52 and 53 Victoria, chap. 54, sect. 1; that is to say, they are under my supervision under the Lord President. I do not say that that statute really for the first time gave the supervision to the Principal Clerk. I think it was always there; but that narrates the fact of the supervision.

55,964. We have already dealt with the offices of the Extractor and the Keeper of the Minute Book. Will you tell us now about the Auditor of Court and his office?—The Auditor of Court was appointed by Act of Parliament, I think in 1810, which confirmed and made statutory the appointment that had been made by an Act of Sederunt of the Court a few years preceding. His office does not seem to be brought under the supervision of the Principal Clerk of Session.

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55,965. What are his duties?—His duties are to tax the accounts of litigants in the Court of Session as they are remitted to him by the court.

55,966. Is he paid by salary or by fees?—He is paid a salary of 700*l.* a year for that work.

55,967. Is he required to give his whole time to his duties?—He is allowed to take up extra-judicial work, as we call it, and is paid by the parties employing him to do it.

55,968. By that, do you mean extra-judicial work of the nature of taxing?—It is usually that, I understand.

55,969. Does he also practise as a solicitor?—He is debarred from practising as a solicitor?

55,970. Is he appointed by the Crown?—He is appointed by the Crown *ad vitam aut culpam*.

55,971. Will you tell us about the judges' clerks?—The judges' clerks' duty is that of assisting, in every secretarial way, their judge in the performance of his judicial duty. They look after the judge's papers, and have these in order for him on the bench; they write out his opinions and supply copies to the parties. They also act as keeper of the roll in any court in which their judge may preside.

55,972. Does that mean that they keep the roll which determines the order in which cases appear in the court of that judge?—That is so.

55,973. Do the judges' clerks have a considerable amount of secretarial work?—That I could not speak to. Their work is fairly constant, but the actual amount of writing they would have to do depends very largely upon the judge with whom they are working.

55,974. How are the clerks appointed?—They are appointed by the judge for whom they are acting.

55,975. The number of clerks is the same as the number of judges—13?—That is so.

55,976. Are they pensionable?—They are pensionable. There is a peculiar system of pension for the judges' clerks. It arose from the fact that amongst themselves they had a pension fund which was taken over under Act of Parliament, and their pension after that was paid by the State; but the State has the fund, I understand, that had accumulated under their own pension fund.

55,977. Is the pension one of fixed amount?—I understand that it is. I understand that it also has this peculiarity, that if one of them is again appointed a judge's clerk by a new judge, his pension goes towards his salary; that is to say, he does not get more than a judge's clerks salary; but if he is appointed to another office, his pension, not being a Civil Service Fund pension, is paid to him in addition to his salary in the new office—that is, apart from his clerk's office.

55,978. Is any specified length of service necessary before a judge's clerk can receive pension; or is he entitled to his pension on retirement, however short a time he may have served as a judge's clerk?—That I think depends upon how he remits office. I am not prepared to speak exactly upon this point, but my understanding is that if the judge dies or resigns the judge's clerk gets his pension, provided the clerk has served for five years. If it is by his own resignation or dismissal, I understand that the matter is different, and he gets no pension.

55,979. If he retires from ill-health, does he get a pension however short his period of service?—I am not prepared really to speak to that, but I could find out and let the Commission know if desired.*

55,980. Have the judge's clerks any emoluments other than their salary?—Yes, they get certain emoluments in the Outer House or in Court generally, if their judge is presiding at a proof.

55,981. That is to say, a case in which witnesses are called?—Yes, where evidence is led the judge's clerk gets writing fees for a certified copy of the evidence.

55,982. Are those fees paid by the parties if they wish to have a copy of the evidence?—That is so, I understand.

55,983. Does that constitute a considerable addition to their emoluments?—In the Outer House, it must, as

all proofs in the Outer House, of course, are before the judges of the Outer House. But this is not a department within my sphere.

55,984. Are the judge's clerks not in any way under your supervision or control?—I understand not.

55,985. They are entirely under the control of the judges whose clerks they are?—I should say so.

55,986. There are also a certain number of macers?—Yes, there are certain macers, and in times of pressure we are entitled to get the services of one or other of the macers in the Court of Justiciary by application to the Crown Agent.

55,987. We have been told that the macers are appointed by the Crown?—That is so, on the nomination of the Lord Advocate, with the exception of one macership, the patronage of which was given, about the fifteenth century, to the vassal in a particular estate that is at present in the hands of the Marquis of Bute.

55,988. Do the macers receive any emoluments in addition to their pay?—They receive a fee for every witness put into the witness-box of one shilling, I believe.

55,989. Is that laid down by Act of Sederunt?—Not by Act of Sederunt, but by uniformly recognised practice in the Court, which is recognised by the auditor of the Court.

55,990. You have told us what the position of the judges' clerks is as regards pension; what is the position of the various other officers whom you have mentioned?—The clerks of Session are pensionable, with the exception of one who does not give his full time. There is only one clerk of Court at present who is in that position, acting as a member of a firm of law agents.

55,991. Did his appointment take place before the rule was made requiring clerks to give their whole time?—No, I understand not.

55,992. Is it the present rule that in the case of any new appointment the officer now must give his whole time?—I believe that is a question of the terms made with him on his appointment. I am not in control of that.

55,993. In whose control would it be?—The Secretary for Scotland, I should say.

55,994. When was the clerk appointed who does not give his whole time?—In 1905, before my time.

55,995. Has it been the practice in appointments since then to require that the clerk should give his whole time to the Service?—That is so.

55,996. But there is nothing in the statute or in the rule governing the offices which requires that that should be the case?—No.

55,997. Will you continue your statement of the position of the clerks as regards pension?—The Interim Clerk of Teinds and his assistants are not pensionable. The Bill Chamber clerks are pensionable, but not the clerical assistant. The Keeper of the Minute Book and his Depute are not pensionable; judges' clerks are pensionable under Section 17 of the Court of Session Act, 1838. Macers of the Court of Session are pensionable, except one who is appointed on the nomination of the Marquis of Bute, as I said.

55,998. Coming now to the system of appointment, you have told us that the judges' clerks are appointed by the judges themselves. Are the other officers that you have mentioned appointed directly by the Crown?—That is so, with the exception of certain of the minor officials, who are appointed by the heads of their departments; that is the clerical assistant in the Bill Chamber and some of the writing clerks in the Extractor's Office. All the clerks who are not pensionable are practically not appointed by the Crown.

55,999. We have been told that those appointments are made on the recommendation of the Lord Advocate?—I understand so.

56,000. Is it the practice to appoint directly from outside to the higher offices, or is it the practice to promote from below?—To what one might call the heads of departments the practice is direct appointment by the Crown.

56,001. From outside?—From outside; that is the Auditor, the Extractor, the Principal Clerk of Session,

* He gets no pension however long he may have served.—E. A.

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the Clerk of the Bills, and the Keeper of the Minute Book. Other appointments are sometimes direct from the outside, or they may be by promotion. Depute clerks of Session are sometimes appointed direct from outside, sometimes by promotion from amongst the assistant or ordinary clerks.

56,002. Having regard to the qualifications required, do you think that, in the case of these higher offices, appointment from outside is necessary; or can the qualifications be acquired by service in the office?—For heads of departments I think that the necessary qualifications might be attained within the office; but even that is hardly quite general. The auditor requires to be a man of considerable standing amongst his fellow agents in order to carry the weight that the auditor's decision always has both with the profession and with the Bench.

56,003. He would already in his own practice have had experience of bills of costs?—That is so; it would be his standing in the profession that would give him his knowledge of the business of auditor.

56,004. For the other heads of departments, you say that outside experience is not so necessary?—Except so far as is required to give him prestige enough to conduct his office with success in regard to the clerks of the office; it would depend upon whom it was proposed to promote as against a suitable outsider.

56,005. If there was a suitable man in the office, would he not carry sufficient prestige for the control of his subordinates?—I think that has been very frequently looked to by the parties making appointments.

56,006. Looking at the question as a whole, do you think that the present system of appointment is the right one, or would you vary it in any way?—On the whole I should say that the present system has worked remarkably well. I certainly think that the system of promotion from within would give more encouragement to the junior part of the staff, and, so far as possible, I think that system ought to be followed.

56,007. Then would you make all the officers of whom we have been speaking Civil servants, required to give their whole time to the Service?—I certainly approve of their all giving their whole time to the Service and making them Civil servants so far as pension is concerned.

56,008. And you would prefer, as a general rule, a system of promotion from below upwards, rather than a system of appointment from outside to the higher posts?—Certainly.

56,009. If that were recognised as the principle, would you maintain the present system as regards the appointing authority?—I should say so.

56,010. Is it necessary or desirable that so many of the officers in question should hold direct Crown appointments?—I do not understand exactly the bearing of that point. Of course they do at present hold direct Crown appointments, and some of us have got to pay for that; that is to say, we have got fees to pay to the Chancery Office for our appointment. I think they all have to pay fees for the office. In my own case I think it was about 28*l.* I paid for the warrant I sit under.

56,011. To what office?—Of Principal Clerk; that is paid in the Chancery Office. You pay 10*s.* for your King's letter, you take that King's letter to the Chancery, and they hand you out your warrant under the seal kept in Scotland as the Great Seal, upon payment, I think it is, of 28*l.* 0*s.* 2*d.* The Lord Justice Clerk also pays that fee. The other judges have had it remitted to them long ago, but the minor officers have to pay, I think it is, 10*s.* for their King's letter. Recently there has been a tendency in these appointments to make the appointment so far as possible wider than it used to be. A man used to be appointed ordinary clerk of the second division, and there he had to sit until he got another warrant appointing him ordinary clerk in the first division, and then if he was promoted to any other office, as recently occurred, he was appointed to be depute clerk of the second division, but in that case they have appointed him depute clerk of the Inner House, which will let him sit either in the second or first division as may be required, which is a widening of the sphere of his commission. I do not see very

much in the fact that he has got to pay 10*s.* for his Royal Commission provided the Royal Commission is made reasonably wide. It is absurd to tie him down to one particular court when he could be performing exactly the same duties just across the passage, but it requires a new warrant.

56,012. That system is historically interesting, but is there any other reason for retaining it?—I know of none.

56,013. In practice it would appear to be cumbrous, and in some respects inconvenient, in that it limits the particular post to which the person is appointed?—With too great minuteness.

56,014. Has it also any bearing on his tenure of office?—Not that I know of. Within modern times they have slipped into the warrants a limit of 70 years of age as the termination of the warrant. That, I understand, is by arrangement with the Treasury; but I understand also that there is no statutory warrant for that limitation.

56,015. We have been told by one witness that he considered that although that limitation was in his warrant it was ineffective and null. Do you concur in that opinion?—I have no opinion upon that point.

56,016. If direct appointment by the Crown were abolished in the case of all the minor offices and heads of sub-departments and those officers were placed on a Civil Service footing, would not that have considerable advantages as regards organisation and as regards questions of transfer and promotion?—It would depend upon in whose hands the power of transferring and promoting was put, I should say.

56,017. Whatever hands it was in, those hands would not be fettered by the limitations arising from the Crown warrant of appointment?—That is so.

56,018. We have been told that it is a matter of common knowledge that in legal appointments in Scotland, at any rate in the case of the higher appointments, political considerations have intervened. Has that been the case as regards the officers of whom you have been speaking, the heads of sub-divisions?—It is not for me to say. I receive the officer after his appointment. I know nothing of the reasons for his being appointed.

56,019. Are you prepared to express an opinion as to whether appointments of this kind ought to be made without any reference to political considerations?—I should say that all appointments ought to be made without reference to political considerations.

56,020. If a system such as I have described, of making all the officers Civil servants and making the general rule promotion from below upwards were adopted, do you think it would be desirable to maintain the present system of personal nomination on the advice of the Lord Advocate, or would it be desirable to change that?—I think that appointment upon the nomination of the Lord Advocate works very well. The field is very small, the qualifications are special, and the Lord Advocate is in a position to find out all that is really requisite for a good appointment; and hitherto, I should say, that it has worked fairly satisfactorily in the Court of Session. I do not suppose that any system will give us the perfect clerk.

56,021. Do you think that any form of competition, open or limited, would be applicable?—I do not think it would give us the class of man that we require.

56,022. What is the class of man that you require?—We want a man who has had a fair amount of experience inside the profession, and I do not think that that class would come forward for a competitive examination for the places that are so seldom open; it really would hardly be worth a man's while working up for a Civil Service examination on the chance of a vacancy.

56,023. Are you aware that a system of competition exists now for appointments in the Register House?—I was not aware of that.

56,024. A system exists of competition among persons who have a certain length of service in a solicitor's office, that length of service varying according to whether the candidate has or has not a university degree. There is competition among candidates holding these stated qualifications. Have you considered whether a system of that kind would be applicable to

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the offices of the Court of Session if they were unified in the manner that has been suggested?—I can quite see that it might be made applicable.

56,025. Do you consider that a system of that kind would give you the sort of men you want?—Really the qualifications are so personal to the man himself that I cannot imagine that an examination would fetch them out.

56,026. You would prefer the system of personal nomination?—Honestly, I would.

56,027. (*Mr. Coward.*) The other would be an experiment?—Yes, it would; it would be an experiment with a very old institution where a man has to come in and make himself conversant with practically centuries of practice. You never know when you may not have to turn up some very old precedent for a particular case that is in hand, in order that justice may be done. It is a peculiar type of mind that is required, and I cannot see how an examination would find it out.

56,028. (*Chairman.*) Under the present system the knowledge necessary for dealing with those obscure points of practice that you mentioned has to be acquired after a man has entered the office?—Not altogether; he has already found out from the other side, from outside the Bar, the nature of the job he has got to do. The agents' clerks and advocates' clerks and the solicitors themselves are all working against the clerks of the Court—that is to say, there are two of them working, one for the party and one for the Court—so that the matter is kept going.

56,029. You attach importance to that knowledge which is derived from previous experience outside?—Yes.

56,030. How then would a system of appointment which takes that into account work with the system of promotion from below upwards for which you have expressed a preference. If a man was appointed at the bottom of the ladder he would, I presume, be generally a man who had not at any rate long experience in the outside profession?—That is just our difficulty; we would not be getting in the ripe kind of man that we get just now when he is appointed later in life.

56,031. Can he not be ripened in the office?—It takes a long time. One is talking of a very few individuals. I have in my mind practically 14 men I am looking upon who have come in, and it is more often just the general loyalty to the Service that makes the thing workable at present. I cannot see if they were all just promoted in one sort of system by examination that it would improve things at all. There are failures amongst them, no doubt.

56,032. I was considering the larger number which would be included if the various offices were unified. The number then would amount to somewhere about 60, would it not?—I do not know how many offices are to come in. That would make a greater diversity of qualification required. A man who would make a very good copying clerk in the Extractor's Office might make a very bad clerk of the court. A man who has been accustomed just simply to copy what someone else has done is not fitted to be a clerk of court at all. A clerk of court practically does no copying work, his work to a certain extent is original work, under the supervision of his judge.

56,033. The question of the copying clerks pure and simple is perhaps one to be considered separately;—whether they should be eligible for promotion to the more definitely clerical posts where the work requires knowledge and discretion. Are there not in the sub-departments of the Court a good many subordinate posts where the work is other than pure copying?—I should say so.

56,034. Do you see any difficulty in those posts being included in a general scheme with promotion upwards?—Not provided the promotion is made very largely dependent upon capability, that the man is not merely because he has been in that post for so many years to be necessarily promoted up higher.

56,035. You would say that any system of general promotion must necessarily be promotion by merit and not by seniority?—Yes; but I frankly say that I do not think that examination is the way to find out what merit is. Without having any very keen view on the

subject, I do not think examination would give us the type of capabilities that we want.

56,036. Then you would prefer that appointment should be by the Lord Advocate. Would you give him any adviser to assist him? It has been suggested in the case of the English legal departments that the Lord Chancellor, who makes a great number of the appointments, should be assisted by a standing committee who would consider the qualifications of the candidates and report to the Lord Chancellor, who, after considering their report, would make the appointments. Do you see any advantage in a system of that kind in the case of the Scotch legal offices?—I do not think any advantage would be gained in Scotland. The Lord Advocate with his secretary and his other assistants is quite in a position to get the necessary knowledge of the capabilities of the man he is about to appoint; he is appointing from a range of men with whom his professional career had brought him constantly in touch.

56,037. I can understand that that is the case as regards the higher offices where the persons suitable for appointment are advocates or writers; but would it be equally the case with regard to the minor appointments, junior clerks in sub-departments?—He would be able to get the information from the men around him in a way that he could trust and in a way that he would not be able just to get it from any committee.

56,038. The field being comparatively limited, you think that his personal inquiries can be effective in discovering the merits of candidates?—I think so; it is a very limited field.

56,039. Turning now to the question of the organisation of the offices and the method in which they are controlled, you have told us that certain offices are by statute directly under your control?—Not under my control, under my supervision, under the Lord President.

56,040. What exactly is the distinction that you draw between control and supervision?—Control, to my mind, would entitle me to go into an office and say "You are to do this," or "You are to do that." Supervision means that when they are in a difficulty they come to me, or if I learn that an office is not working up to the mark I am entitled to go and say, "What doest thou?" and then report to the Lord President and deal with the matter as he sees fit. There may be no difference, but I understand that that is the sort of distinction that is drawn by those around me as regards the position of principal clerk at present.

56,041. Taking first the case of the office which is most directly under you, where there are depute, assistant, and ordinary clerks, how far does your supervision extend there? Do you say to a particular clerk that he is to attend to a particular thing?—No.

56,042. Who determines that?—His commission; he gets appointed in lieu of So-and-so, now deceased, and goes and sits in that court, and sits there until he is removed by warrant from the Crown.

56,043. Is he assigned by his warrant to the court of a particular Lord Ordinary?—No; a Lord Ordinary may come and a Lord Ordinary may go over his head, but he sits in that court.

56,044. The office is continuous and attached to the particular court, apart from the question of the personality of the Lord Ordinary who presides in that court?—That is so. When there is a vacancy in the Inner House, the Senior Lord Ordinary goes into the Inner House, and then the newly-appointed Lord Ordinary takes his court in the Outer House.

56,045. There is no power of transfer from one court to another?—Not except just for accommodation during illness, or something of that sort.

56,046. Has the Court no power of transferring an officer from one court to another?—I do not think so.

56,047. Does that apply to assistant and ordinary clerks as well as to deputes?—That is so.

56,048. So that a man, having been appointed to a particular court, remains in that court for life?—That is so.

56,049. As regards discipline, what are your powers? You have by statute I think, power of suspension for

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six months?—Yes, that is the principal compulsor that I have.

56,050. Is that your sole power of disciplinary action?—Apart from removal by petition.

56,051. That is to say, if the case were grave enough to require removal, it would be your duty to petition the Court?—I am not sure whether it is I or the Lord Advocate who takes that action; it has never been done in my time.

56,052. Supposing there were questions of discipline not grave enough to raise any question of suspension for six months, is it your duty to take cognisance of them?—That is so.

56,053. If one of the junior clerks, for instance, was irregular in attendance, it would be for you to take notice of it?—It would be for me to warn him.

56,054. How would it be brought to your notice?—Sometimes it is by the Lord Ordinary in whose court he is; it may be by his depute; it may be that I hear from an agent that he has not got satisfaction with regard to some particular incident; or it might be that I noticed that the clerk was not in court when I expected him to be in court, or not at his office when he ought to have been in his office.

56,055. Is the position the same as regards the Bill Chamber, for instance?—Precisely the same. There, of course, the Principal Clerk of the Bills really, in a way, stands to them as principal clerk in the sense that unless it is a grave breach of discipline he would deal with that sort of matter himself.

56,056. And as regards the other sub-departments, the Extractor's Department, for instance?—The Extractor deals with his staff entirely apart from me.

56,057. Your power of suspension does not apply to them?—No, I think not. Some of his clerks are appointed by him—there are two that are Crown appointments—and he really exercises discipline in his own office.

56,058. And the same thing would apply to the very small department of the Keeper of the Minute Book?—Yes.

56,059. In the case of the macers, what is the arrangement as regards discipline?—The judge of the Court would exercise discipline over the macer, I understand, but I dare say I might be called in if there was any discipline to be exercised. There seems to be no statute on the subject, only just common law rule.

56,060. You exercise no supervision even over the internal arrangements of the Extractor's Department and the Minute Book Department?—No. I am entitled to issue orders, or the Court may issue orders through me, as regards what is to be done in the Extractor's Department.

56,061. You never visit that department officially to see how the work is going on?—No, I do not. I may say that every half-year I have to give a report to the Court as regards the issuing of extracts by the Extractor's Department, and that the work is, in my opinion, satisfactorily conducted.

56,062. How do you ascertain whether it is satisfactorily conducted?—If I ascertained at all that there was any complaint of any kind, I would intervene and have to report it to the Lord President, and I might do that at any time; but with an efficient Extractor, that supervision is practically in my hands a matter of form; there is no complaint that the Extractor's work is behind—that it is not duly expedited.

56,063. Is it only by the absence of complaints that you form the conclusion that the work is satisfactorily done?—Complaints would at once arise if the work was not satisfactorily done, because there you are dealing with very critical work. An agent not getting his extract timeously, as he thinks, would very soon make complaint—he would be bound to do so.

56,064. All the offices of the court are situated at the Register House, are they not?—Yes; except the box office, which is the office where the papers are boxed to the judges. There are 13 boxes to put the papers in that have to go to each judge. A clerk has to be in attendance there during certain hours of the day to mark the papers as having been properly boxed to the judges.

56,065. Apart from that, all the offices are at the Register House?—That is so.

56,066. How are papers that are required at the court brought from the Register House to the court?—An assistant or ordinary clerk has the Roll for the next day, from which he makes up the bundle of papers necessary for the Court's work of the next day. These are transferred under the charge of a commissionaire, who is my officer for that purpose, in a covered van from the Register House up to the court, in time for distribution among the depute and assistant clerks up there, at about half-past nine in the morning.

56,067. Are those papers returned to the Register House at the conclusion of the day's work in court?—The van goes down again at mid-day, at 1 o'clock rather, in order to be ready for opening the Register House at two; but any papers which are still needed in court remain up in court, and are locked up there overnight for the next day.

56,068. Does that system present considerable inconveniences?—Very grave inconveniences. If any other paper is required, we require to send down a special messenger and get the paper up; and it is also very liable to allow papers to go missing. This system, which has just been instituted, within the last four years, I think, is more reliable than the old system.

56,069. The system of transfer in a van?—Yes, under a special officer. The special officer is the principal thing; he is responsible for the going and coming.

56,070. How was it done before?—There were porters from the Register House who had no official appearance, they were, just as it were, common porters to outward appearance. I do not think any very grave trouble arose, but it was not satisfactory in the sense that the clerks of Court were not satisfied that the porter whom they were giving papers to was the right man. By good fortune it was practically the right man who got them, but the system did not seem to lend itself to a proper check.

56,071. But even the improved system now in force presents great inconveniences?—Inconvenience in the sense that the staff of the court is divided from mid-day onwards; the assistants are down there and the deputies are up in court, and it would lend itself to better supervision in every way if the clerks and papers were all under the one roof as far as possible.

56,072. Would there be any difficulty about that?—It is a matter of finding office room in the Parliament buildings; that is a matter for the Board of Works, I understand.

56,073. Apart from the question of office accommodation, would there be any other objections to it?—I know of none.

56,074. Would it be equally convenient to the profession?—I think it would be more convenient to the profession, because the Parliament House staff, as we call them—that is, the court clerks—are in attendance in court, and I should say it would be more convenient for them to do their court office work up in the Parliament House buildings during the court hours.

56,075. It would mean that they would have to go to one place instead of two?—Yes.

56,076. May I briefly recall the system you have described in this way: The Principal Clerk of Session has supervision but not control over certain of the officers attached to the court; he has a lesser degree of supervision over other of the offices; in some cases his supervision is practically non-existent; the offices are divided up into a number of different compartments, minutely regulated by statute, each with a separate staff and a separate head; they are situated at the Register House at some distance from the courts, and the inconveniences which you have described arise from their local situation?—That is so.

56,077. Would it be possible to have a system under which all those subdivided offices should be combined into a single service, with a staff on a Civil Service basis, under the direct supervision and control of a single head, who would naturally be the Principal Clerk of Session. Would a system like that be practicable; and, if it was practicable, would it offer advantages compared with the present system?—I think it would be quite practicable. The only difficulty would

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be the waiting till the different officers vacated their present tenure of office—vacated their present offices. You understand that when the Court of Session was instituted the Clerk Register, or as you call him in England the Master of the Rolls, was responsible for the records of the court; he deputed that duty to six principal clerks of Session; he himself was made a Lord of Session with the result that he became Lord Clerk Register, and for one or two lives that was continued, and then he practically disappeared and left the whole business in the hands of the six principal clerks. To my mind six principal clerks meant no control at all. However, that is a matter of opinion. That system went on, and the public got very discontented with the way in which extracts were issued, with the result that Parliament intervened and made the present system of extracts, and ultimately the Extractor's Department upon its present footing was formed. Just in the same way historically the auditing was put by the Court itself into the hands of an auditor, and then Parliament took it up and made the auditor of Court of Session a permanent statutory officer with a salary attached, and so on. All these offices really to my mind are the result of there being divided control in the principal clerks who are deputies of the Lord Clerk Register. The only apparent survival of that connection between us is that, at the election of Peers under the Act of Union, I appear as the depute of the Lord Clerk Register at Holyrood House when they make the election of the sixteen Peers for Scotland.

56,078. Do you conclude from that, that the original single control having disappeared by the conversion of the office of Clerk Register into an honorary and nominal office, unity of control should be restored in some such way as I have described?—I should think that was logical, provided that the new depute of Lord Clerk Register was made subject to the Lord President directly as I am at present. All my control and all my supervision is under the Lord President. I think that is very advisable for the work such as I have to perform. In all grave matters I go to the Lord President and consult with him.

56,079. Is it under the Lord President or under the Court?—Well, in matters under the Clerk of Courts Act, 1899, it is under the Lord President. Of course in many cases it might be a matter of the Lord President calling in all the judges, but that would be cumbersome for ordinary discipline.

56,080. If such a unification took place, how far could it be extended? Would it be desirable, for instance, to include the offices of the Court of Justiciary?—Their work is really so very different in the Criminal Court from what we have in the Civil Court, that it would be a very grave question whether it would be advisable to join the judiciary clerks along with the Civil clerks, but I think it might be done, provided that there was great care taken to select the proper men for the judiciary work, which is very anxious work in the sense that it deals with the liberties of people instead of just with their properties.

56,081. I gather from what you say that you think it necessary to have an entirely separate staff for their work; that the clerks who do the judiciary work would not be suitable for transfer between that and the Civil work?—I could not say that as an absolute thing, it would depend very much upon the individual. I may just say that at present one of the judiciary clerks is out on war service, and one of the judge's clerks is acting substitute for him in the Justiciary Office, because before he became judge's clerk he had had considerable experience in the Crown Office, so that he went to act as substitute in the Justiciary Office with previously-acquired experience in that sort of work.

56,082. Then you think that it would not be impracticable to work the Justiciary Office by a scheme of that kind?—I think it would not.

56,083. On the balance of advantage, do you think it would be desirable or not?—I really am hardly prepared to sum up the advantages on one side and the disadvantages on the other; I have never heard the question really argued out. I have read different re-

ports and that sort of thing, but I do not know that they appeal very much to my mind.

56,084. What about the Teinds Office? Could that be brought into the general organisation, or is it necessary to have that separate?—I think it ought to be brought into the general organisation. The present holder of the office, of course, is so exceptionally an expert in his subject that it would be difficult under any system to find a successor to him; but that is a thing we have always got to face, whether the office is separate or not; it will undoubtedly always be an exceptional and special office.

56,085. But for the purposes of consolidation you would bring it into the general organisation?—I am not sure but what it may be within the supervision of the Clerk of Session, because the Court of Session is now in certain of its judges the Court of Teinds, and I suppose that really brings the clerks of the Court of Teinds into the position of being to that extent clerks to the Court of Session; and if they are clerks of the Court of Session, then they are under my supervision. But I am thankful to say that nothing has occurred to raise the question in a practical form. Their work is done admirably and well, and there has been no question of supervision one way or another. I can see no reason why that department should not be brought into any general scheme upon that footing, although, of course, it will always be a special and exceptional office dealing with one very exceptional class of work.

56,086. What is the existing rule regarding the age of retirement of officers of the Court?—Just as I stated before, that commissions now bear an age limit of 70, but as you yourself remarked that is debated. As regards its efficiency, I myself consider that it is final, being in our commission; you accept your commission on that basis, and I see no answer to that.

56,087. If the Civil Service status were established generally for officers of the Court, do you see any reason why the ordinary Civil Service rule should not apply? That rule permits retirement at 60, and requires retirement at 66, with possible exceptions in special cases?—Some of our most efficient clerks of court in my memory have been men who were well over 65, but these were exceptions; and if they were dealt with as exceptions under the Civil Service rule, then good and well; but I do think that for the class of work a man is not done by the time he is 65, especially in a class of work requiring long years of experience before one is efficient.

56,088. Have you at present any clerks who are more than 65 years old?—One depute clerk is over 65; the interim clerk of Teinds is over 65; and the clerk of the Minute Book is over 65; that is all that I know of.

56,089. When were those gentlemen appointed?—The Depute clerk, who is over 65, was appointed last year.

56,090. Was he over 65 when he was appointed?—He was 67 when he was appointed.

56,091. Had he previously been a judge's clerk?—He had been Lord Advocate's clerk.

56,092. Was he Lord Advocate's clerk at the time when he was appointed?—Yes, that is so. He is just the type of man to whom I referred; he is quite vigorous.

56,093. Can you say how long he had been Lord Advocate's clerk?—I could not say that. He has lived all his life as Advocate's clerk, and one of his masters had become Lord Advocate and he became Lord Advocate's clerk; but all his life has been spent on the floor of the Parliament House, I should say, and possibly his father's life before him; I do not know, but very often it is that way.

56,094. He was appointed direct to be a depute clerk of Session?—Yes.

56,095. And how long have the other two gentlemen concerned held their offices?—The interim clerk of Teinds was originally appointed in 1871; he was promoted in 1878, and he attained his present office in 1905; but he had been in the Teinds Office all his life.

56,096. You have given us a statement of the hours of attendance at the offices of the Court of Session?—That is so.

56,097. Are those hours satisfactory to the public and satisfactory for the business to be done?—They are

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practically what the law societies—the Writers to the Signet and the Solicitors before the Supreme Court—asked for at the last inquiry. The Bill Chamber Office hours have not been extended to 5 o'clock, but that is under consideration. As a matter of fact, I am assured that there is no demand for it—that the work is done by 4 o'clock, and it would merely be keeping the clerks on for another hour doing nothing; but it is under consideration. It was suggested by the 1911 Committee that their hours should be extended to 5 o'clock, so that they should at that end coincide with those of the offices of the clerks of Session.

56,098. What are the arrangements as regards vacation?—The only arrangement I know as regards that is that the depute clerks have to arrange to allow their assistant clerks six weeks' vacation in the year, which is made up between the Spring and Summer Vacations. As Principal Clerk I have to see that that is done. I have never required to put any compulsion on at all. As a rule, the depute clerk relieves his assistant for more than the statutory six weeks by giving him two months, or whatever it may be.

56,099. Subject to that requirement, do you yourself and your deputies have the benefit of the whole of the vacations of the Court of Session?—I can speak for myself. I have constant correspondence of one sort or another going on during vacation, but I am relieved from attendance in court. The deputes and the assistants have the Vacation Courts, which sit on two Sederunt days in each vacation, when one judge sits and transacts certain business, and the different deputes and assistant clerks appear with the proceedings of their respective courts before the Lord Ordinary on the bills in vacation.

56,100. Subject to that, and subject to the arrangements for the assistants' vacation, they have the vacations of the Court?—Yes, the deputes have.

56,101. What is the period of vacation of the Court of Session?—The Court of Session meets upon the 15th of October; it rises for a fortnight's, or thereby, vacation at Christmastime. We have what is called the February week, which is a week appointed by the judges in February. The Court, under the statute, rises on the 20th March, it sits upon the 12th of May, and rises again upon the 20th of July, and the Summer Vacation is from the 20th of July to the 15th of October.

56,102. That would appear to make about 18 weeks' vacation in the year?—That is so, I believe. I may say that the judges have the power by Act of Sederunt to extend the sittings in Court into the vacation if they consider that the business of the Court requires it.

56,103. Returning once more to your own office, if your control were extended, and the offices were unified in the way we have been discussing, that would add considerably to your own duties?—I should presume so.

56,104. In that case would it be desirable that you should be relieved from the duty of sitting in court yourself?—You see, there is really no duty of sitting in court if I have duties elsewhere, and it is quite convenient that in special cases I should appear in court. For instance, I usually sit if there is a hearing before a larger bench, or anything special like that. Also, I should not like personally to be deprived of the right of sitting in court, which, if the duty were abolished, would rather appear to follow. I have a room in the Court House which would be quite available for doing office work, provided I had a properly constituted clerk, which I have not at present, and I have got either very great personal labour in having to do all my typing myself, or I have to get somebody to do it for me. I think if the offices were consolidated there ought to be in Scotland an officer equivalent to what the masters of court in England have; they have a secretary to the master of court. He would not require to be a highly-paid official at all; but there ought to be a clerk to the Principal Clerk. What I should like to see would be a clerk who would keep files of the different departmental negotiations that the Principal Clerk has to carry through, because there are many negotiations about all sorts of interim appointments and also correspondence sent down from the Scottish Office to be laid before the

judge. I have no person to file these for me, and I have to do it with my own hand.

56,105. You keep your own records, in fact?—When I entered the office I found no files existent at all, because before my time there were six, then four, and latterly two, Principal Clerks, and it being divided between them they looked upon it very largely as their own private affair, and so far as I can make out the records disappeared with them; the matter was done with, and the record just disappeared.

56,106. It would be easy to provide a proper record and proper clerical assistants in a consolidated office of which the Principal Clerk was the head?—Surely; and for that purpose one of the existing clerks might get a little extra fee for doing the work. I should also say that the office should be salaried at a larger sum than it is at present—not from a personal view at all; but, for instance, I get 1,000*l.* a year as Principal Clerk, and the Treasury have awarded another 100*l.* a year to the present holder of the office. To my mind that is not a satisfactory position for the office. As I understand, a master of court in England has 1,500*l.*, and the senior master has 2,000*l.* Scotland, we know, has always to come in second; but, considering that there were two officers at 1,000*l.*, and one of them was abolished, I think the Principal Clerk ought to get either 1,250*l.* or 1,500*l.*, if it is to be a consolidated office with all these men under it. And I am saying so because I know that my subalterns all consider that the office was not properly treated at the last adjustment. Personally, I make no complaint.

56,107. You think that if the responsibilities are materially increased, the salary ought to be increased?—I think for the status of the man holding the office it ought to be increased to give him authority both with the outside public and also with his own staff.

56,108. As regards the comparison that you make with the salaries of masters in the English system, you are aware of course that their duties are very largely judicial?—It may be so, but they have to do the functions of the Principal Clerks of Session in Scotland. It is quite true that I have not judicial functions to perform.

56,109. (*Mr. Matheson.*) When you were speaking of recruiting the clerks, you said that the field was very small. I do not quite understand how that is. Are there not many men working in writers' offices in Scotland?—There are not many of them who would be prepared to give up their prospects in life and take a stereotyped office; that is one thing that limits the field.

56,110. How does the pay in your office compare with the pay of men employed in a writer's office?—It is not merely the men employed. I am talking of the class of men I want, which is men going forward to be law agents, to be solicitors themselves.

56,111. But have the men that you take in generally got their full qualification before they come in?—Sometimes they have and sometimes they have not. As a rule they have been in lawyers' offices studying with a view to passing the Law Agents' examination. There are men on the list I have given the Chairman who are themselves law agents, although some of them may not have actually qualified by paying the fees.

56,112. At what age do they generally come in?—We get them at all ages; they are usually men who have become known amongst agents as to a certain extent promising.

56,113. Then if the Service was standardised and put at all upon the footing of the Civil Service, would not that mean that you would have a considerable number of people who would regard it as a career worth going in for?—I do not think you would get any more than at present. I do not think it would be looked upon as a thing to be sought after. You are looked upon as a man who has sacrificed his prospects in life and has locked himself up in a blind alley—even with promotion, because promotion has been going on hitherto. My deputes are all considered very respectable worthy men, but I do not think there are many law agents who would be prepared to change places with them.

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56,114. What was your reason for thinking that the Lord Advocate would be more likely to know about possible candidates than a committee which had an opportunity of sifting all their qualifications and comparing them with one another. I take it that the Lord Advocate is a busy man?—Yes, but he has a staff; he has his secretary and he has a Crown Agent; he has got all the Crown Agent's office. That is my opinion. I do not think that a committee, who have no responsibility to the public, would give you satisfactory results.

56,115. The responsibility would still rest with the Lord Advocate?—If he had a committee behind him and said: "I just took the man the committee appointed," what could you say to the Lord Advocate? At present the Lord Advocate knows that any appointment he makes in court will be canvassed on the floor of the Parliament House, where all his personal friends are and all his professional friends are. If he makes a bad appointment he is responsible; and he is responsible in Parliament; and merely to give him a committee is giving him a screen that would let him get behind his responsibility, because he would just simply say it was the committee's appointment. And nobody knows who the committee are. At least, that is my view.

56,116. (*Sir John Kempe.*) You say, I think, that for the higher appointments you consider some legal knowledge essential, but for the lower ones it is desirable but not actually essential; that is to say, for clerks and so on?—That really depends upon how far you are going down.

56,117. Clerks?—I should say that a certain amount of knowledge of legal terms was necessary in all of them. For all assistant clerks of court, I think legal knowledge is essential; but if you are going down to copying clerks in the Extractor's Office a very small amount of knowledge will do, so that they should know these terrible things, Scots law terms, and know what they are.

56,118. Do not you think they might be picked up in the office to some extent?—They might; but if it was to be made a matter of promotion from these upwards, it would be best that they came in with fairly good qualifications, as law agents if possible.

56,119. That is to say, you prefer the present nomination system, but you are not absolutely against the present Civil Service system for legal as well as other offices?—I would not like to be father to putting it into the law system of Scotland, with a committee behind.

56,120. But you say that because you have no experience of the Civil Service system?—We have no experience of it—that is quite true. If you could get an ideal committee which would conscientiously do the work it might be different; but I should think it would just lead to an enormous amount of wire-pulling, and unless the committee were very conscientious I should think the present system was better.

56,121. That is because you think the present system is successful?—On the whole it is successful.

56,122. You see that there are reasons against the present system, but you feel that it is quite successful, and you do not want to risk anything worse?—That is pretty well what it comes to.

56,123. You have an age limit by commission, but not by law?—Yes.

56,124. If a clerk is appointed without any trouble to himself by nomination and with no age limit, especially if there is also accompanying it promotion by seniority, which you do not have (you have promotion by merit), does it occur to you that a man coming into the Service in that way looks upon his appointment as a provision for life with certain easy duties attached, with which he need not trouble himself to do more than merely go through them; whereas if he comes in by open competition he comes in with strong sense of responsibility, and will feel that he is part of the machine that has a great deal of work to get through as well as possible. Is there not that difference between the nomination system and the open competition system, or even a committee system?—Hardly, I think. Under the present system you have a man who is there who knows

that he is acting under the eye of the judge all the time; he is part of a system that has hitherto worked upon these lines, and I think there is a great *esprit de corps* amongst the present clerks, and that is very essential. If men came in thinking they had got the job by examination, and were quite superior to everybody who had ever been before them, I do not think you would have just the same type of man, and I do not think you would get the work done as well. I do not think the present system is perfect at all, but it has given satisfactory results. At the last inquiry, in 1911, there was practically no complaint; on the contrary, solicitors appeared and praised the clerks very much for the way in which they conducted the work between solicitors and the court, because they all felt they were on their honour to do their best.

56,125. You think that goes right through the office?—Yes. They all feel that they are constantly in the public eye as represented by the judge on the bench, who is to them the representative of the authority that they are subject to.

56,126. In no sense has such a clerk a freehold office which he is holding comfortably for life?—The control might be stiffened, but I do not think it would displace the *esprit de corps*.

56,127. You say in your notes of evidence: "I am not aware of what Sir William Haldane refers to as routine work capable of being devolved upon the lower grades of the staff as at present constituted. The apparent absence of what is termed lower grade work in the Court of Session proper seems accounted for by the manner in which the functions of the Clerks of Session have been separated into semi-independent departments." I do not understand that. What, in your view, would be routine work?—I would call copying routine work.

56,128. Why does separation into semi-independent departments account for the apparent absence of that lower grade work in the Court of Session?—Because no copying is done in the Court of Session. It is after the clerk of the Court has made the record and passed it to the next department, where it is out of our control in the Record Office, that mere copying is done.

56,129. But besides mere copying, is there not any other work that may be described as routine work, such as filling up forms. In the English Courts there is a great deal of that; is there not also in the Scotch Courts a great deal of the kind of work which consists of doing the same thing over and over again—the same class of work?—No, we have very little of that. There is a certain amount; there are certain interlocutors that are largely just "repeat, repeat"; but you have always to be careful that you are using the proper forms. That, to my mind, is not mere routine work; because if you were using what was applicable to a Scotch litigant in a matter dealing with a foreigner, you might throw the whole thing out of gear. The number of days that a writ has got to run depends upon whether a man is domiciled in Scotland or not; so that although it is routine work in itself, which may have been done a dozen times by the man, he has to know what is the proper form he has to bring in. I cannot call that routine work.

56,130. Is that work done by any clerk who happens to be doing the particular work in hand? It is not done by a lower class clerk; it is done by first and second class clerks?—Yes, just merely to get through the day's work, if the roll is heavy, both working as hard as they can to get through.

56,131. You think that a class might be doing a lot of routine work all of the same sort. I call it routine work. You say it is not necessarily routine work; but could it not be done by a lower class?—No, none of the work in court could be done as routine work by those men. However accurate he might be in copying, he has to get the original. The clerk really makes the original under his judge; but, as a rule, the judge has so many interlocutors to sign that he just depends upon the clerk.

56,132. (*Chairman.*) There is work of that kind in the sub-departments, is there not—in the Extractor's Department?—Yes, and there the extractor drafts the

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extract and hands it over to a copying clerk; that is the one case where you have copying.

56,133. (*Sir John Kempe.*) You have given your reasons why you think that an age limit is not so necessary in legal departments. Do you consider that there is any difference between legal work and other work as regards the commencement of going down hill in life; does a person go down hill more slowly in a legal department than in the ordinary Civil Service?—In Scotland we always say that lawyers are long lived. Some of our best judges have been men over the ordinary Civil Service age, and it is the same with our clerks, I would say.

56,134. You think there is real reason for an extension of the age in the legal branches beyond what is necessary in the Civil departments?—I certainly do not think that 65 would be a reasonable time to pension off an ordinary clerk of Court. I should think he was just then probably of the right age and experience, so that the Court was depending upon his judgment in many matters.

56,135. Would you not say the same in other departments—the Local Government Board?—I cannot say at all with regard to that. I have no experience.

56,136. It is only because you have not had experience?—Yes. I can only speak for my own department. I think that any person, looking at the history of the Court, would see that a lot of the best work was done by clerks over 65, perhaps well on to 70.

56,137. You would find that, I think, in England in all departments?—A general rule like that always strikes the individual and always strikes the Service badly; because if it was absolute to strike off from the Service a man merely because he was that age, it might be very hard for the Service as well as for the man. I can give you one very good example—the Interim Clerk of Teinds: nobody could do his work better than he does it. He is quite fresh—you would think he was a man of 55 to look at him. He would have been cut off five years ago and there would be nobody to replace him.

56,138. You always find exceptions?—Yes, that is so.

56,139. The auditor of court you say is equivalent to a taxing master?—Yes, that is the English term.

56,140. You say that he is not confined to taxing work in his own office, he can take outside taxing work?—Yes.

56,141. What is taxing work? Is it taxing bills of costs?—Yes, taxing bills of costs as between the client and his law agent.

56,142. Might it not give rise to an awkward position if he is allowed to do outside taxing work with his official taxing work?—Supposing I get my lawyer to carry through a sale transaction of property for me, I might say, when he sent in the bill, "I think that is rather stiff"; then he says, "Send it to the auditor"; I say, "I will send it to the auditor." The auditor taxes it practically as arbiter between us.

56,143. As private work?—Yes, he has got his table of fees by which that is paid for.

56,144. And he gets paid for it?—Yes.

56,145. What is the distinction between work that he is paid for privately and work that he is paid for publicly?—One difference is that formerly all these fees that were paid in these accounts went to him. Parliament stepped in and, in appointing him a statutory auditor for the court, said, "All these fees that you got for that court work will go into the fee fund" (that is the Exchequer), and we will pay you 700*l.* a "year down."

56,146. It is only in connection with the court?—Yes. The result of the present system is, of course, that we get a man who is prepared to sacrifice all his private solicitor's work and go into this Audit Department, and the Government get a man for 700*l.* a year, because he knows that as auditor of the court he can get all this private work, which may bring his income up to anything between 2,000*l.* and 3,000*l.*, and we get a very much higher type of man. I think that is all to the benefit of the court; and there is no question

about our work being done, he has plenty of time to do both court work and other work.

56,147. Do the costs that he taxes as private work come into the court account?—No.

56,148. He will not afterwards have to tax them in his official capacity?—Yes, he has sometimes to tax an account as between party and party, and afterwards to tax the same account as between the party and the law agent.

56,149. Is not that rather an awkward position?—No, it is considered an exceptional benefit that he is doing both, and knows exactly what he has done before, and why he did it.

56,150. (*Miss Haldane.*) Supposing you had the higher posts put on the Civil Service footing, would there not be a certain benefit in having a Scottish Civil Service Commissioner? Supposing you had, say, the Lord Advocate, perhaps the Lord President, and the Civil Service Commissioner, would not that make an Appointments Board that would not have those objections that you were talking of?—That is just my difficulty. I would far rather trust the Lord Advocate than any Commission that could be appointed, because I have got the Lord Advocate doing the deed, and I know who has done it: whereas with Commissioners we never know who the Commissioners are, they are coming and going, their names disappear, and they are not responsible to public opinion in the Parliament House.

56,151. You understand what I meant. It has been suggested to us that an Appointments Committee for England, on which the Civil Service Commissioner acted, might be desirable?—Yes, I understand.

56,152. I wanted to ask about the macers; who are they usually, and what are they appointed to do? What is their occupation?—We have all sorts of people. When a macership falls vacant, we have about 400 applications from all parts of Scotland.

56,153. Is it advertised?—No. The death of the previous macer goes into the papers, and it is considered absolutely the finest thing that any ordinary Scot can get hold of. What the qualifications are one can hardly say. We have some ex-soldiers who may have gone in after they have been soldiers, and become, say, butlers or club porters, and that sort of thing. It is always a mystery to me how a macer comes into his place in court. One of his duties is to find law authorities for the judge, and how he finds them I do not know; it is probably owing to his training in promptness; but it is a mystery to me how they get hold of things.

56,154. I wanted to know whether ex-soldiers and sailors had a preference for the office?—Not necessarily.

56,155. There is no regulation laid down?—There is no regulation. We have one or two ex-soldiers and sailors.

56,156. But are most of them butlers or gentlemen's servants?—No; some of them have been small shopkeepers.

56,157. Have you considered at all the desirability of using women's work in any of the departments that you have spoken of?—We have, I think, one woman employed in connection with the attendants for the witnesses' room—a woman attendant; but that is hardly in my department at all. I think that comes under the Board of Works.

56,158. I meant in the clerical departments.—No, we have not; because typewriting is hardly known except among the judges' clerks.

56,159. Do you use much typewriting?—It is largely used now. All proofs are practically issued by the judges' clerks in typewriting, and they may employ women assistants for that—I cannot say. I believe in some cases they do.

56,160. Have you ever considered the desirability of introducing women in the clerical departments?—I have not. It would be just on the same footing as admitting them into the profession generally—they would take their place.

56,161. You, personally, have not got any special opinion on the subject?—No; I would be quite pleased to see them there if they were admitted to the profession generally.

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56,162. (*Mr. Graham Wallas.*) With regard to Mr. John Smart, who was appointed in October 1914 at the age of 67 to a depute post at 500*l.* a year, he was a clerk, I understand, to the Lord Advocate?—That is so.

56,163. Is that post of 500*l.* a year pensionable?—He comes under the Superannuation Acts. I cannot say exactly, but he is pensionable if he qualifies under the Superannuation Acts.

56,164. Now, in 1912, Mr. Roxburgh, whose age is 48, was also appointed to a post now worth 475*l.* a year; he is put down as clerk to the Lord Advocate, who was Mr. Ure in that case?—That is so.

56,165. How many clerks has the Lord Advocate at a time?—One.

56,166. Then, in 1914, I find that Mr. John Lessels was appointed at the age of 56—he is now 57, apparently—to a post of 350*l.* a year, and he was Lord Advocate's clerk?—Yes.

56,167. Clerk to the same Lord Advocate?—No, probably a different one. It is a personal appointment of the Lord Advocate for the time being for himself. If the Lord Advocate goes out of office his clerk goes with him.

56,168. But what I mean is, that Mr. John Lessels was appointed to this post and had before his appointment been Lord Advocate's clerk?—Yes, it might be to the same Lord Advocate or not; I cannot say that. It merely means that he has given as his qualification that he had at one time acted as clerk to a Lord Advocate.

56,169. I understand you to say that the great advantage in personal appointment by the Lord Advocate, instead of by a committee on which the Civil Service Commissioner is represented, is that you always know the principles on which the Lord Advocate will act?—No, I do not know that. What I do know is that the man who has occupied the public position of Lord Advocate has a responsibility which is present to his mind when he has made the appointment.

56,170. Now, there are four depute clerks in the Estimates, and the Estimates state, as regards these four, that one of them receives an annual salary of 25*l.* as herald, that one receives an allowance of 20*l.* as clerk to the Valuation judges, another has the registration of law agents and receives fees averaging about 60*l.* a year. The gentleman appointed at the age of 67 is one of those four; does he hold one of those extra posts?—There are five depute clerks in the Outer House, and I do not think Mr. Smart, to whom you have been referring, holds one of those special posts.

56,171. On the first page here there is a list of depute clerks and of assistant clerks in the office, 14 in number, and from the note at the side I gather that six of them were, at the time of their appointment, Lord Advocates' clerks?—That will be so.

56,172. That means to say, that they were originally clerks to an advocate—to a barrister, as we say in England—of the ordinary type of barrister's clerk?—An advocate's clerk is quite a different person from a barrister's clerk.

56,173. And when the barrister became Lord Advocate six of them were appointed in that way?—Yes, during a period of years.

56,174. You told us that you thought it a very great difficulty in your own position that you had no one to keep your documents or to type a letter, or anything of that kind for you. I understand that, although you are Principal Clerk of Session, and although you have 50 persons (more or less) under your control, there is not one of them that you can ask to type a letter for you?—There are many I can ask, but none I can order. I should say that there is none that I would ask and not get it done for me. I get it as a favour, and they are very willing to do it, but that is not right.

56,175. The reason being that all their duties are determined by statute?—And custom.

56,176. By statute and custom; and those duties in no case include giving general assistance to the principal clerk?—That is so.

56,177. Turning for a moment to the Report of the Departmental Committee of 1911, that Committee, re-

ferring to the insufficiency of the punitive power of principal clerks, recommended that it should be "extended so as to cover serious or repeated neglect." Was that recommendation carried out?—No, there has been nothing done on it.

56,178. Then in the evidence given by Mr. Patrick William Campbell, yourself being present, in 1911, on page 19, Mr. Campbell stated, and you assented, "The only serious case was that of a man whom I wished to turn out on more than one occasion, but the Lords Ordinary, with whose Bar he was connected, wished him to have another chance, and another of the Lords Ordinary followed on the same lines and said he would pull him up and make him attend to his duty. I said that in my view they were both mistaken, but it was, in a sense, no business of mine to turn a man adrift if the judge whose work he was supposed to attend to expressed the desire to retain him any longer. It only ended in his giving further trouble and being sent off." You adhere to that?—I was not Principal Clerk at the time when that occurred, but I know what it referred to.

56,179. Now even if your present control over the office and your personal responsibility were extended, that difficulty—namely, that apparently you cannot get rid of an incompetent officer without the leave of the judge to whose Court he is attached—will remain?—It is not really the leave of the judge, but one would not like to go contrary to the expressed opinion of the judge, because one would have to go before the Lord President and would have to argue it out as between the principal clerk and that judge. The Lord President would be the one who would have the final say. These cases are all a matter of doing the best.

56,180. You could not be fairly held responsible for discipline in the office if, in fact, you could not get rid of any official in your office except by the consent of the judge. I will leave it at that?—It is not the case that I cannot. I could get rid of a clerk, apart from the wish of his judge, if I were able to persuade the Lord President; and I think that is quite a proper safeguard against personal spite on the part, it might be, of the Principal Clerk of Session. I would rather exercise my control after having persuaded the Lord President that it was necessary.

56,181. Would you agree that, given an administrative organisation, one of the disadvantages of personal patronage is that a man, whether competent or incompetent, always has his patron behind him and is supposed to deal with him?—On the contrary, one's best screw upon the appointee is his patron. If you have anything to say against an appointee, the easiest plan is to go to the appointor and say, "This is the man you have given me," and he will soon see that it is put right without exercising the technical discipline under the statute.

56,182. We had a large experience in England of personal patronage up to 1870, and I should think it is doubtful whether it worked in that way. Now, in the Report of the Departmental Committee of 1911, Mr. Watt, at page 24, recommended that, "The principle of pooling the clerical, registry, and record-keeping part of the work might with advantage be extended." Has anything been done in that direction?—No, nothing has been done in that direction.

56,183. Then, on page 18, Mr. Haldane in his memorandum said, that changes could be introduced "which would enable the more responsible officials to delegate more of the routine work to junior clerks, and thus reduce the over-proportion of senior posts, save public expense, and give greater facility for young men entering the Service." Has anything been done in that direction?—Nothing. I do not know what exactly he means by that, and I have not been able to find out. I saw him personally about it, and he said it really did not refer to junior Clerks of Court, as the capital "C" would seem to infer, but to junior clerks, with a small "c" in the copying departments.

56,184. Then, on page 21, Mr. Watt in his memorandum says: "That no officer of this service should be allowed to be a partner in a firm of practising law agents or be a director of any public company." Has

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anything been done in that respect?—Nothing was required to be done very specially. As I have already said, there is only one officer in the court now who is a partner of a firm.

56,185. But are there any clerks who are directors of public companies?—Not that I know of.

56,186. Then Mr. Watt, on page 22, says: "I venture to think that there are too many separate departments in the establishment of the Scotch Law Courts, too many quasi-independent courts—most of them appointed 'from outside' for political reasons." Would that indicate that, in Mr. Watt's mind, it was a notorious fact that these appointments were made for political reasons?—I think that is for the Commission to say. I can hardly say what was in Mr. Watt's mind; it looks like it.

56,187. Then the majority, on page 11 of their report, state: "In this way all political appointments 'would be eliminated.'" Would you agree that to say that after a change all political appointments would be eliminated, indicated that in their view political appointments existed?—I should say so.

56,188. And on page 17 in Mr. Haldane's memorandum he said: "So that appointment and promotion throughout may, in future, be by selection for merit rather than as the result of influence and pressure." That reference to the future seems to indicate that in Mr. Haldane's view influence and pressure resulted in promotion and appointment then?—I think so.

56,189. You stated that at present in your judgment appointment by the Lord Advocate works very well; but you also stated, in answer to a question, that in all these appointments political influences, if they did exist, constituted a bad element, did you not?—I do not think so. I am not one of those who think politics are naughty.

56,190. Then I will ask you the question directly: Do you think that if a man is appointed to a permanent life-long pensionable post for political considerations, that fact is to be deprecated?—I think I may say yes, to that; he ought to have other qualifications.

56,191. Therefore the question whether the present system of appointment works very well depends upon whether the present system of appointment is influenced by political considerations?—I would not say so. Any other system, by a committee or otherwise, might also be influenced by political considerations.

56,192. Now in the memorandum which you have been good enough to hand to us, you state that to combine the Crown Office with the office of clerks of Courts would "militate against the confidence of the public and of the profession generally in the purity of the administration." Would you mind explaining exactly what you meant by purity there?—I mean, that aloofness that ought to exist in the clerk of court's mind as regards interest on either side of the litigation that is concerned. The Crown Office is one side of the contested litigation in the Criminal Court, and for a clerk of that Court to be under the same head as the Crown Office to my mind would militate against—purity is perhaps not a good word, but aloofness, impartiality.

56,193. On page 7 of the Majority Report of 1911 it is stated that, to put the Extractor's clerks upon fixed salaries, "would facilitate the carrying out of minor reforms such as the shortening of extracts by the omission of the 'long warrant,' and the substitution of a short form as proposed by the principal extractor." How can the question of what is the most convenient form, and the most desirable form, be influenced by the question whether men are working by time or by piecework?—Because the length of the extract determines the amount of work that that clerk had to do, and he was being paid by his writing, which was paid for by the length. It is precisely the point that came up when the principal clerk's salary was dealt with by Parliament in 1810. Then the principal clerk's remuneration was fixed by the length of extracts.

56,194. Your evidence is that the form at present, which is fixed apparently by the Court —?—No.

56,195. Who fixes the form?—Parliament—it is statutory.

56,196. Then the fact that this form has not been shortened in accordance with expert advice is due to the fact that the longer form provides more writing work for the Extractor's clerks?—That was so; there was that difficulty, but this matter has been dealt with now, that is to say, the clerks are now put upon salary, which enables the Extractor to press forward the matter of getting an Act of Parliament put through to shorten the form.

56,197. At last we have got something that was done in consequence of the report of 1911—the Extractor's clerks are put upon salary; and also there is only one Principal Clerk of Session now. Has anything else in the recommendations of that Committee been done?—Yes, the recommendations about the salaries of the Bill Chamber clerks have been carried out; and also the hours of the clerks of court in the Register House have been dealt with, with the exception of one hour extra for the Bill Chamber clerks, which is under consideration.

56,198. (Mr. Philip Snowden.) Yours is a Crown appointment, I understand?—Mine is a Crown appointment.

56,199. Made on the recommendation of the Lord Advocate?—Yes, that was so.

56,200. You were appointed at the time when Mr. Shaw was Lord Advocate?—I was.

56,201. Might I ask were you in any way prominently identified with politics before you received this appointment?—I should say so, in a moderate degree.

56,202. Were you ever a Parliamentary candidate?—I was. I have been twice a Parliamentary candidate.

56,203. In the Liberal interest?—Yes, I was in the Liberal interest.

56,204. I understood you to say that formerly there were quite a number of Principal Clerks of Session?—In old times, yes; before 1810 there were six.

56,205. Later the number was reduced to two?—Yes.

56,206. And you are the only Principal Clerk of Session now?—I am the sole Principal Clerk of Session now.

56,207. When was the second one abolished?—He resigned in 1912, I think.

56,208. Yours was a joint appointment before?—Yes, I was double along with Mr. Campbell. I was joint Principal Clerk at that time.

56,209. Then are you supposed to combine the two offices in yourself now?—Yes, under Act of Parliament.

56,210. Both the work and the responsibility?—Yes.

56,211. But not the salary?—Not the double salary. I get an extra 100% a year.

56,212. So that the abolition of the second office effected a saving of 1,000% a year?—It will effect a saving of 1,000% a year when I go out of office. At present I received my office as one of two, and they have given me an extra 100% to make up for the additional work they have put upon me; but when I go out of office my successor, under the present arrangement, will take office at a salary of 1,000% a year.

56,213. Do you know how long your predecessor had held office?—I think since 1888.

56,214. Do you know whether also he had been prominently identified with politics before his appointment?—He had not been a candidate, I think. Still, you are asking about things that happened when I was a very young man.

56,215. But you were always interested in politics, I think?—I always was, and I hope everybody always will be; every good citizen ought to be.

56,216. You do not regard yourself as being under the rule which enjoins all public servants to maintain a very strict reserve with regard to political questions?—I cannot say as to that. I should say that I look upon my office as my prime duty in life, and I will do nothing derogatory to my office.

56,217. How are your immediate subordinates appointed?—That is not for me to say. They are appointed by the Crown, and I receive them as appointed. I know nothing about the principles or anything behind that, and I do not inquire.

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56,218. You are never consulted?—Officially I am not consulted.

56,219. But privately you are?—I am not going to say.

56,220. I think we have a right to have an answer to that question, if I may say so?—Then I will say that I have been consulted by various Lord Advocates; but I do not say that my suggestion or my opinion has been accepted or has not been accepted. The responsibility is with the Lord Advocate.

56,221. And to use your own phrase, you think we may safely trust the Lord Advocate in these matters?—He is responsible in Parliament.

56,222. And you think that his knowledge and his responsibility to Parliament are a sufficient safeguard against any abuse of the patronage he enjoys?—That, I think, is a matter for Parliament to say. That is our constitution, as I understand it.

56,223. You appear to be very well satisfied with the way in which the present system of appointment works out; you do not think that by any other system you would be likely to get a more efficient or more capable staff of men? Do you think that the very best capacity and ability are invariably to be found in the men who happen to have been clerks to Lord Advocates?—I do not say that; but I say that they are men of good experience, and are probably selected as clerks by the Lord Advocate because they are men who have had a vast experience before he appoints them as his clerks.

56,224. Are they the private clerks of the Lord Advocate?—These are private clerks.

56,225. Are they paid out of the salary of the Lord Advocate, or does he get a special allowance from Parliament?—I understand that these particular clerks get no allowance from Parliament; they are paid by his clients, like any other private advocate's clerks.

56,226. And according to what Mr. Graham Wallas said just now, in recent years no less than half a dozen Lord Advocates' clerks have been found to be the most capable men in Scotland to fill a post in the Public Service within the patronage of the Lord Advocate?—Quite so. I should say that many of our best clerks have been Lord Advocate's clerks before they came to us, men who could not be replaced by anybody else in Scotland, I should say. The tradition of the office has been very good.

56,227. You have these macers, who, I suppose, are similar to the men we call ushers?—I think probably that would be your English term.

56,228. They are nomination appointments?—That is so.

56,229. Does the nomination rest with the judge?—No.

56,230. With whom?—It is a Crown nomination; they have the King's superscription to their appointment.

56,231. But I do not suppose the King takes very much personal interest in these appointments?—I am not aware. I cannot say.

56,232. As a matter of fact, who does appoint them?—The Lord Advocate, through the Secretary for Scotland, with one exception.

56,233. Is that under some ancient right?—Yes, it is under an ancient right; you shall have it correctly. Nomination to one of these macerships is held by the Marquess of Bute, under a patent that was granted to the Barony of Byres away back in 1483.

56,234. Does the nominee of the Marquess of Bute usually happen to be one of his butlers?—I could not say. The present gentleman was appointed after the Marquess had refused to exercise the nominating power, I understand; but it was before my time.

56,235. But as a matter of fact are these men usually men who have been in the service of rich people as butlers and such like?—No, I should think not always; but I cannot tell you what reason made them appoint them; they are there and are doing their work very well. The only thing I would point out is that that macer is not pensionable, because he is appointed under this old rule. I think that might be put right.

56,236. I might remind you that we are here to ascertain the method of appointment to these various posts?—That is quite right.

56,237. (Lord Dundas.) You have told us that you think it would be quite possible gradually to co-ordinate a number of these offices into one consolidated office under one head?—That is so.

56,238. I noticed that you observed that you thought it was a grave question whether the Justiciary Office should be so treated?—Yes.

56,239. I just want to put two or three questions to you about the Justiciary. Historically, of course, the Court of Justiciary, the Criminal Court of Scotland, is, and has always been, quite a distinct thing from the Civil Court, the Court of Session?—That is so.

56,240. You told us that in the Court of Session the judges sometimes make rules and regulations by way of an Act of Sederunt?—Yes.

56,241. On the other hand, the corresponding Criminal Act is what is called an Act of Adjournal, and the two systems are kept in different books by different officials?—They are in different offices.

56,242. I may take it briefly that the civil procedure and the criminal procedure are widely different the one from the other?—Yes.

56,243. I think that until the year 1887, which to some of us seems but yesterday, not all the judges of the Court of Session were criminal judges?—That is so.

56,244. Down to 1887 the criminal judges, I think, were the Lord Justice General, the Lord Justice Clerk, and five of the other judges, selected for their experience and skill in criminal matters?—I think selected by the Crown.

56,245. Probably for that reason?—Yes.

56,246. Appointed as judges of experience in criminal matters?—Yes.

56,247. But since 1887 the whole 13 judges of the Court of Session are Commissioners of Justiciary, or, in other words, criminal judges?—Yes.

56,248. And part of the duty of clerks of that office, I think, is to sit in court and regulate the procedure in the Criminal Court, and assist the judges when required as regards procedure and practice?—Yes.

56,249. The assistant clerks go, I think, on circuit with the judges who go to the various circuit towns?—Yes, that is so.

56,250. It is necessary, is it not, to have as those clerks men of carefully-trained knowledge and experience in the arts of criminal procedure?—Yes, that is so.

56,251. And experience in a civil clerkship would not, I suppose, be of direct use to a Criminal Court clerk, or *vice versa*?—It would not.

56,252. Therefore, you say, and I understand it is your view, that it would be a very grave question whether the Justiciary Office could be properly co-ordinated in the way that is suggested?—I think so.

56,253. You do not have an opinion more strongly either way?—No, I think the case might become clearer after the present Civil Courts have been put on a permanent footing under one head. I think that at present it would be very dangerous to try to make the whole change all at once.

56,254. As regards the Crown Office, I think you said, in answer to a member of the Commission, that you are against treating it in the way of co-ordination?—I think it is almost impossible, at least from a lawyer's point of view, to conceive of the two offices being worked as one.

56,255. So I should think; but that is your view?—That is my view.

56,256. Then one word about Teinds. Teinds, I suppose we may take it, are a subject of some intricacy and great speciality?—Yes, very.

56,257. There, again, I suppose, experience as an ordinary clerk would be of little service to one who was appointed a Teinds clerk, and *vice versa*?—Very little. A junior assistant in the Teinds Office might be transferred across into the Civil Department, but not

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the head. If you got a man suitable for the head of that office he would be so valuable that I do not think you would wish to transfer him.

56,258. You mentioned the dates of the sittings of the Court of Session in your evidence. It is the case, is it not, that during every vacation there is one judge

in attendance as vacation judge during the whole year?—That is so, in the Bill Chamber.

56,259. And, of course, there are circuits that occur in vacation?—Yes.

56,260. And jury trials, and other matters?—That is so.

Mr. WILLIAM THOMAS KETCHEN, W.S. (Keeper of the General Register of Sasines), called and examined.

56,261. (*Chairman.*) What office do you hold?—I am the Keeper of the Register of Sasines, and in addition I keep the Register of Hornings, Inhibitions, and Adjudications, and I keep the Register of Entails, such as it is now.

56,262. How long have you held that office?—I was appointed on the last day of the year 1910, and I was gazetted a few days afterwards.

56,263. What was your profession before that?—I am a Writer to the Signet, and was in general practice as a solicitor.

56,264. The Office of Sasines is an ancient office, and the remuneration of the keeper and his assistants was formerly paid by fees?—That is so, down to the year 1845, I think.

56,265. In that year was the system of payment by salary established?—Yes.

56,266. And since then the fees have, I suppose, gone to the Exchequer?—They have.

56,267. In the year 1869–70 was a change made in the system formerly in force?—A great change was made. What were called the Particular Registers of Sasines—that is, the local registers—were abolished, and the General Register of Sasines was established on a new footing; that is to say, the General Register of Sasines was arranged in divisions according to counties, and the deeds are delivered to me, or, by special authority of an Act of Parliament, are posted.

56,268. Will you tell us very briefly what the work of the Sasines Office is?—The Office of Sasines consists of registering the deed as distinguished from the registration of title. What we do on receipt of a deed is, we enter it and take a note of it in a presentment book. That presentment book, although recognised by Parliament, is not statutory; it has no bearing on the registration itself; it is more for our guidance in the work of the registry. On the receipt of the writ, after being entered in the presentment book, it then proceeds to the depute keeper's district—that is, the county district. Of course, one depute has several counties under his control.

56,269. How many districts are there?—Six districts. It proceeds to one of the districts and there the deed is carefully examined with regard to stamp duty and with regard to proper execution; that is to say, we will not receive a blank deed, of course, and we see that it is witnessed, and that the other particulars tally with what is declared in the deed. Then we take a minute of that deed, which is just the names of the parties to the deed, particulars as to its date and when it was received (which is its date of registration), and a sufficient synopsis of the description of the subjects so as to enable these subjects to be recognised from the minute.

56,270. A brief abstract of the deed?—A brief abstract of the deed.

56,271. With sufficient particulars to identify the parties, to identify the land dealt with, and to indicate in a summary manner the nature of the transaction?—That is so. That draft is then sent to the printer. When the print comes back it is carefully checked, and it may then be used for the purpose of being entered on the search sheet.

56,272. What is the search sheet?—The search sheet is a land account. The heading of the account is a shortened description of the holding—the estate or property owned by a man. In this is entered all the minutes, which are ultimately printed, dealing with that particular unit of property.

56,273. In that way, under the heading of the particular unit of property, you get a summary record of all the deeds affecting that unit of property?—That is so;

and it is what in Scotland we call a search in anticipation to disclose burdens on the title generally.

56,274. Are those particulars also indexed under the name of the proprietor?—Under the name of the proprietor, and also there is an index as to places. That index is also in a double form, because there is an index to the printed minutes which are bound up at the end of the year; and there is a huge index containing the names of parties and the places with reference to the volumes of the search sheet.

56,275. You have told us now as to the preparation of the minute and the entry of the minute in the search sheet, or ledger, as I think it has been described?—That is so.

56,276. What is the next process?—The next thing is to get these minutes printed. We get another proof of the print, and that second proof is checked, not from the first proof but from the deed itself, to see that there has been nothing omitted. If it then passes it is printed, one copy upon particular paper for the official Minute Book, and several copies over and above that.

56,277. What is the next step after that?—After that the deed itself is sent back to what we call the general room, and from there it is handed out to the engrosser for the purpose of being recorded in the record volumes. These record volumes consist of 200 folios bound in an official book, which is specially dedicated to me by the Keeper of the Records, the Deputy Clerk Register. When these volumes are filled up they are returned to him for safe custody.

56,278. The complete text of the deed is copied into this volume?—In full, beginning with the first word right down to the signatures of the parties and of the witnesses.

56,279. A very large number of these volumes are preserved in your department?—A very large number. I think in the Edinburgh district alone they now run up to 5,000.

56,280. How far back does that complete register go?—The register is complete, more or less, from the 1st August 1617.

56,281. When the deed has been copied into the register, are there any further steps?—It then gets a certificate of registration which states the division—that is, the county in which it has been recorded—the date, the particular book applicable to that minute, and the pages wherein it is copied, the date of recording, and that is signed either by me or by one of my deputies.

56,282. That is endorsed on the deed itself?—It must be on the deed. Anything like a piece of paper on which there was no writing at the end of the deed would not be sufficient; it must be endorsed on part of the deed itself.

56,283. Is the deed then returned to the parties?—The deed is then sent back to the solicitor who sent it in.

56,284. Are the volumes of the register kept by you, or are they handed over to the Record Department?—They are sent to me empty—blank—and when they are filled up I return them to the Deputy Clerk Register.

56,285. Then there are three principal steps in registration—the preparation of the minute, the entry in the search sheet, and the copying of the deed?—Yes.

56,286. Has your office also duties connected with subsequent searches?—Yes.

56,287. What are those duties?—These searches are certificates showing what deeds affect any particular subjects which are described in the first part of the certificate. They are just short notes taken from the search sheet, and are practically abbreviated minutes, giving the whole particulars, excepting that we do not

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repeat the description of the subjects, because the subjects themselves are at the head and in the first few pages of the certificate.

56,288. Any applicant can obtain an official document of the nature you describe which will give him the particulars of all the deeds in the Register relating to a particular parcel of land?—That is so. It is a public Register.

56,289. Is the accuracy of that certificate guaranteed?—That has been guaranteed since the year 1905 by the Government.

56,290. Does that mean that the Government takes pecuniary responsibility for any results of an error in those particulars?—Fortunately the question has never arisen, but I understand it is so.

56,291. Does that summarily describe the whole of the work done in your office?—Yes, so far as the Sasines Office is concerned. In addition to that, from time to time the Keeper of the Register of Sasines has had other offices added on by Act of Parliament. We have the Register of Inhibitions—that is what we call a personal register. An inhibition is a document which, when recorded with me, has the effect of disabling any proprietor of land from selling his property until that notice is removed from the register, and, on the other hand, it acts as a warning to any person wishing to deal with this particular proprietor of land.

56,292. You have some other similar registers?—We also have the Register of Adjudications. That register is a system by which land is adjudged from the proprietor to a person who has a claim; it may be for debt, or it may be in implement of some obligation under which the proprietor had placed himself to sell a particular piece of land. There is also the Register of Hornings. That is an old Scottish form of what we call diligence, which is now superseded by the Personal Diligence Act of 1806 or 1836—I forget the exact date. That Register of Hornings is very seldom used. It is used very occasionally in very exceptional circumstances.

56,293. The Register of Entails is practically moribund?—That Act was passed in 1685. Now we do not register entails because they are prohibited, but we still have to enter in that register what we call disentails, where a man having an entail has, by decree of the Court, authority to hold in fee-simple.

56,294. What is the staff of your department for dealing with the work that you have described?—To deal with that work there is a keeper and six assistant keepers, six chief clerks, one accountant, 13 first class clerks, and 48 second class clerks, making up an establishment of 75. In addition to that there are 61 engrossers, but they are not on the establishment.

56,295. What is the work of the different classes of clerks you have mentioned. In the first place, what is your own work?—As the head of the office I have the control of the whole staff, and all questions in connection with the work of registration, and questions of difficulty, have to be referred to me. Of course, my main duty, I should say, is to defend the register and see that no improper deed gets on and otherwise maintain the usefulness of the register, because if I allowed any such deed to get on it would, of course, defeat the purpose for which the register is kept. Then, subject to the Secretary of State for Scotland, I have control of the staff; I recommend men for promotion and I correspond with the Secretary for Scotland on all questions of interest or importance in connection with the office. With regard to money matters, I correspond with the Secretary for Scotland, who passes it on to the Treasury. I am under the Treasury to a great extent with regard to money matters.

56,296. If any change in the salaries or the staff were required?—In any case of that sort I must get the authority of the Treasury first. The office now being broken up into six districts it is desirable that uniformity in those districts should be maintained, and when new classes of deeds come out I very often draft a form of minute which I consider would be applicable to them so as to secure uniformity thereby.

56,297. You have six assistant keepers?—Yes.

56,298. Is one assistant keeper in charge of each of the six districts into which you have said the work is divided?—That is so.

56,299. The assistant keeper, I suppose, exercises a general supervision, under you, over the work in his district?—He has the supervision of the work in the district, and he reports to me on the work of the individual staff. He also has a general revision of the minutes and matters connected with the search sheet so far as it is possible for one man to overtake it in his district.

56,300. Is there one chief clerk in each district?—There is one chief clerk in each district, and his duty is practically to assist the deputy keeper, with this difference: He is responsible for the distribution of the work amongst the men in the district, and he also takes an important part in the revision and checking of the entries in the search sheet.

56,301. By whom are the minutes drafted—by which class of clerks?—As a rule we can tell from looking at the deed whether it is going to be difficult or easy. The easier minutes are drafted in many cases by the second class clerks. The more difficult ones are undertaken by the first class clerks. There are two first class clerks in each district, one in charge of what is called registration—that is, the drafting of the minutes—and the other has more the control of the search sheet; both are, of course, quite capable of drafting the more difficult minutes.

56,302. A minute drafted by a second class clerk would be revised by a first class clerk?—If we were not very busy it would go straight to the deputy keeper, or chief clerk.

56,303. But before being finally passed it would always be checked and revised either by a first class clerk or an assistant keeper?—Yes, or a chief clerk.

56,304. Besides the drafting of minutes and other operations connected with the reception of the deed and the entry in the search sheet, there are also the duties which you have described connected with subsequent searches. By what class of officer are those duties performed?—Sometimes the search would be drafted by a second class clerk, or in some cases, if an intricate one, by a first class clerk, and in either case it is revised ultimately by the chief clerk or the deputy.

56,305. Is the entry in the search sheet as a rule the same as the minute?—It is exactly the same as the minute with this difference, that we leave out the subjects. We just say "The above subjects," because the subjects are described at the head of the account, so to speak.

56,306. So that the work of entering in the search sheet is not work which requires so much discretion as the original preparation of the minute?—Subject to this, that they must take the very greatest care that the subjects correspond exactly—nothing more and nothing less—with the subjects at the head of the account. It must be most perfectly appropriate to the entry.

56,307. If a search has to be made subsequently—if the public apply for particulars with regard to a certain parcel of land, by whom is that search made?—It is sent first of all, if it looks simple and is a small piece of property, to a second class clerk, and is then revised by the chief clerk or the deputy. If it was an intricate one a first class clerk might be asked to look to it.

56,308. Is that work done as part of the work of the district, or is there a special section who make the searches?—The searching goes along with the district.

56,309. Would the same class who are engaged in compilation of the search sheet make the searches?—Not always. We divide them off. There are so many men kept more or less to the search sheet work, and others more to the minutes.

56,310. Which do you consider the best and most important kind of work?—The registration, of course, is the keynote of the whole system, but the consequences of the work of the search sheet are very grave, of course.

56,311. Do you consider the drafting of the minutes the most important and difficult work?—Oh, no. The drafting of the minute is done by a second class clerk and revised. I thought you spoke with regard to the search sheet.

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56,312. I meant the whole of the duties that are done in a district, which include the drafting of minutes, the entering of the search sheet and subsequent searches. Which of those duties is the most difficult and important?—I should think the entering in the search sheet is the most difficult. It requires great care.

56,313. Is it more difficult than drafting the minute?—Yes, undoubtedly. You have to be sure you are getting the right account.

56,314. Because of the importance and difficulty of being certain that the particular piece of land is identical with that at the head of the search sheet?—Partly that, and partly the consequences under the Government guarantee if anything were left out.

56,315. But the consequences of an inaccuracy in a minute would surely be equally serious, because the minute is the basis of the search sheet?—Yes, but I think there is more chance of a slip in the search sheet. I think you require a more experienced man to enter in the search sheet. There is a greater risk of mistake, and, possibly, it is more difficult of detection at the time.

56,316. Coming now to the entry in the register, that is done by an engrossing clerk?—Entirely.

56,317. Under whose supervision?—Under the supervision of the accountant of the office who has charge of the engrossers. They are under his department.

56,318. Does he hand out the work to them?—He hands out the volume, takes a note of the volumes which he has got and of the deeds. There are on an average between 50 and 60 deeds in every volume. As they are being copied in from time to time, 30 to 40 folios at a time are compared first by a first collator. Every deed is collated twice. It is signed by the engrosser and also signed by the two collators, so that we know who is responsible for seeing that the deed has been properly copied in.

56,319. Will you tell us now about the method of appointment of your staff?—Since 1701 I and my predecessors have been appointed by the Crown.

56,320. Is there any statutory qualifications for the Keeper of the Sasines?—Yes; he must be a solicitor or an advocate.

56,321. Has he, in fact, generally been an advocate or a solicitor?—So far as I can make out from my inquiries—and I have made a note of my predecessors—we have all been advocates or Writers to the Signet, with one exception. Then the rest of the staff now rank as regular Civil servants, and the majority of those have come in by competitive examination. There are still a few of the senior men who were appointed by my predecessor, Mr. Brodie.

56,322. You are excluding the engrossers?—Yes, of course.

56,323. What is the method of competitive examination which is applied now?—The subjects of examination are Scotch law and Conveyancing, and, until recently, such subjects as papers in indexing, in abstracting and English composition, and handwriting and spelling, of course. Within the last few months a change has been made which will take place on the 1st January next year, whereby the examination is practically confined to Scotch law, providing always that the man must have an intermediary leaving certificate or have passed the second general knowledge examination. After the 1st January next year he will be examined in Scotch law and English composition only, with spelling and handwriting.

56,324. Are there preliminary qualifications necessary for admission to the examination?—These qualifications, at the present moment, are that a man must have passed what is called the first examination in general knowledge for a solicitor in Scotland, and he must have been two years in the office of a conveyancer. That has been changed; they have now to pass either the second general knowledge, which is a higher examination, or hold a leaving certificate in certain subjects, and must have been five years, not necessarily as an apprentice but just as a clerk, in a conveyancer's or land agent's office.

56,325. Is the period diminished in the case of persons with a university degree?—Yes, that is the usual condition; that is reduced to three years.

56,326. Are those the sole qualifications, or are persons who have served in the office in some other capacity allowed to compete?—My reading of the new rule is, that these other qualifications do not count after the 1st January next year.

56,327. Under the rules which are now being changed, engrossers and boy clerks were admitted to the examinations?—Yes, they were. It was counted just as serving in a conveyancer's office.

56,328. But under the new system they will not be admitted?—That is my understanding of the rule.

56,329. When we were taking evidence on the point of whether similar previous qualifications should be required for some of the English appointments, we were told there would be great difficulty in defining what constituted service as clerk in a solicitor's office—that it would be difficult to distinguish between actual clerk's work and work as an office boy or telephone boy, which certainly would not confer legal qualifications. Has that difficulty been found in the case of these examinations?—I think it has. Personally, while I think it was a step in the right direction to have five years instead of two, it was a pity that the regulation did not go a little further, as I wanted, and insist upon a regular apprenticeship as distinguished from a clerkship, for the very reason you have mentioned.

56,330. How has the system worked in practice? Has it given you the right kind of men?—As a rule it has; but, of course, on the other hand, there are men who have passed in who certainly did not show such aptitude, judging from results, as others.

56,331. How long has that system of examination been in force?—Since 1881, I think.

56,332. The number of men who entered before that is now comparatively very small?—Yes, very small.

56,333. Can you make any comparison in your mind between the men who have entered by examination and the men who entered under the previous system?—I should say that, with certain exceptions, the men who entered without examination were very highly-trained lawyers, because, although they did not pass that examination, they had served probably a full apprenticeship with a lawyer; and, over and above that, perhaps, had very responsible work as a real law clerk in an office before they were appointed by my predecessors to the office.

56,334. Do you consider that previous legal experience is necessary for entrance to the office?—Most undoubtedly; it is a law office.

56,335. Could the legal knowledge required be acquired in the office?—It would be acquired to a very considerable extent; but my view is that the theoretical training and the practical training to be obtained as an apprentice would make a man much more useful from the first, and he would develop and be able to make more use of the experience that he gained in the office.

56,336. Then you think the present system is the right one; but you would stiffen, even more than has been done at present, the previous qualifications required?—I would. I believe in apprenticeship, because where there is apprenticeship there is at least a certain amount of obligation (whether it is fulfilled or not) upon the master to give a lad every opportunity to learn his business.

56,337. Are the higher posts in the office, with the exception of that of keeper, filled entirely by promotion from the junior ranks?—They are.

56,338. And that works satisfactorily?—Quite satisfactorily.

56,339. You find that by the present system you get enough men of superior ability to fill the higher posts, including those of assistant keepers?—Undoubtedly. We can always get a sufficient number from amongst the class of men who are coming in under the present requirements. With regard to all the young men I have just now, I have not the slightest doubt I shall be able to draw upon them to fill the higher posts when their turn comes.

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56,340. On what principles are men selected for promotion?—The first principle, of course, is their fitness for the work. I promote the young men step by step, but I generally choose them, not only for their fitness to discharge the duties of the rank immediately above, but with a view to their stepping higher. Seniority I only use where it comes to equality in other matters.

56,341. Have you departed considerably in your selections for promotion from the order of seniority?—I am afraid I must say, Yes.

56,342. Why "afraid"?—Because at one time I think seniority played a greater part. I was following one of my more immediate predecessors, and I went for the man's fitness.

56,343. You found it desirable to promote the men who, in your opinion, were the most fit?—Yes.

56,344. Have you found the result of that satisfactory?—Most satisfactory.

56,345. It is encouraging to the good men?—We get the best results in every way.

56,346. You get the good men into the more important posts, and a man feels that he will get some result from doing his work thoroughly well?—And I think it encourages the younger men to make an effort.

56,347. By whom are the engrossers appointed?—They are appointed by the keeper for the time being.

56,348. The staff generally—that is, the clerical staff—are Civil servants, and, I suppose, are subject to the ordinary rules of the Civil Service as regards discipline, age for retirement, and so forth?—Yes, entirely. The last order is dated 10th January 1910, I think.

56,349. What are the hours of attendance?—From 9.30 to 4.30, with a very short interval for lunch. That is in normal times.

56,350. Seven hours with a short interval for lunch?—Yes.

56,351. Are the hours strictly observed?—They are. I consider it my duty to see that they are. I insist upon their attending punctually.

56,352. Have you an attendance book?—Yes.

56,353. Is it ever necessary to work overtime?—At this time of the year we generally work overtime, but this year, owing to the untoward circumstances, I have got the staff to agree to give an extra hour all over. The hours are from 9 to 5, but one or two of them, owing to special circumstances, come in a little later than 9 and remain a little later than 5 o'clock. There is no extra pay for this additional hour, but that is an abnormal state of affairs.

56,354. In normal times does the work vary much at different periods of the year?—Yes, it varies to this extent, that in the months of May and November we are very busy; we get a very large number of writs.

56,355. Can the work be got through then in normal times without overtime?—Yes.

56,356. What is the amount of holiday in the year?—It varies according to rank. The deputes, if they like, and myself, can have eight weeks; the chief clerks get seven weeks; the first class clerks six weeks, and the second class clerks five weeks.

56,357. You are responsible for the discipline of the department and for recommendations for promotion?—I am.

56,358. What is the relation of your department to the Deputy Clerk Register?—The Deputy Clerk Register has the physical control, if I may say so, of the Register. He supplies me with the books; he has ultimately to keep them; and if I were to provide the books I might not provide the most suitable size. It is generally laid down by Lord Low's Commission that he has practically physical control of the Register.

56,359. In matters of discipline, for instance, or in matters of promotion, do you report direct to the Secretary for Scotland or do you report through the Deputy Clerk Register?—On everything I report direct to the Secretary for Scotland.

56,360. The Deputy Clerk Register in his evidence did not recognise that that was the relation which was established by existing statutes and rules between the Deputy Clerk Register and the Keeper of Sasines.

We do not propose to go into the question of the interpretation of the existing statutes; that is a matter which is outside the Commission's reference. But I will ask you this question: Do you consider it desirable as a question of organisation that the Keeper of Sasines should be directly responsible to the Secretary for Scotland for his department, or do you consider that the Deputy Clerk Register should have definite control or supervision of the department, and that his relation to it should extend to other matters than the material point to which you have said, in practice, at present, it only extends?—With all deference to the Deputy Clerk Register, I think it would be most unfortunate if any such system were established, and I think it is in the interests of the public that I should, as the head of the department, be responsible to the Secretary for Scotland alone without any intervention. I did not know that this matter was coming up.

56,361. Turning now to the engrossers, you are acquainted with the proceedings and Report of the Committee which was appointed to consider the position of the engrossers in 1913?—Yes.

56,362. The questions considered by that Committee were, I think, mainly three—whether the system of payment by piecework should be continued; whether the engrossing staff should be pensionable; and the exact remuneration which they should receive?—That is so.

56,363. It is, I think, outside the work of this Commission to inquire into the details of the remuneration, but we should like to know your opinion on the recommendations of the Committee on the other two points. In the first place, do you concur in the view of that Committee that it was necessary to retain the system of payment by piecework?—I am of opinion that it was necessary for the proper conduct of the work.

56,364. The Committee recognised that there are considerable disadvantages attaching to that system of payment, but they did not see their way to devise a better system?—That is so. Of course, the real objection at that time was that there was a certain amount of work for which they were not paid, and as Mr. Stringer, the gentleman who gave evidence, said, if it is a system of piecework, every piece of work must be paid for. That grievance has now been removed.

56,365. Are the engrossers satisfied with the payment now that the alterations recommended by that Committee have been introduced?—I could scarcely say that they are quite satisfied, but they recognise that there is an improvement.

56,366. On the question of pension, the Committee did not see their way to recommend any alteration. At present the engrossers are not pensionable, but are entitled to gratuities under the Superannuation Act, based on the average earnings of the last three years of service. Do you concur in the Committee's recommendation on that point?—I understood that the Committee at one stage put it alternatively—whether their pay should not be somewhat reduced with a view to a small pension being given under certain conditions; but as a matter of fact that was a question disposed of by the Treasury. The Treasury gave the view that they did not see their way to giving a pension, and therefore they maintained, or rather increased, the rate of pay.

56,367. The Treasury stated that they could not give any pension under the Superannuation Acts as they existed?—Their hands were tied by the Act of Parliament.

56,368. It is open to this Commission, of course, to recommend modifications of existing legislation?—I should be sorry if it went forth that my evidence was that I opposed it. I do not at all oppose their getting a pension.

56,369. What is your view on the question of pension?—I would be very glad if the Treasury could see its way to giving them a pension under certain safeguards, which no doubt the Treasury would look to.

56,370. Have you considered whether a contributory system of pensions would be possible?—I am afraid I am not sufficiently good as an actuary to go into that. Of course, there would be difficulty with some of the men now, some of them being so old.

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56,371. There undoubtedly would be some difficulty about starting a contributory system in the case of older men who have not contributed over the whole of their service?—The difficulty would be in starting.

56,372. But if that difficulty could be got over in any way, would there not be advantages in a contributory system in such a case as this, where a man's earnings are somewhat considerable in earlier years and diminish in later years?—Personally, I should be very glad to see these men provided for in their old age, because there are a great many hardships.

56,373. There is in the same group of buildings with you a Register of Deeds?—Yes.

56,374. The work of that office is concerned with operations somewhat similar to those which are performed in your office?—Of course, I cannot speak as to details. In a general way I know it is a copying of deeds, with this difference, that they not only copy the deed, but they give out the copy and retain the principal—it is a mere copying of deeds.

56,375. It would appear at first sight that two departments, whose work is in many respects so similar, might be brought into closer relation and combined under a single head with, perhaps, some advantages as regards the economical application of the engrossing staff. Have you ever considered that question?—I have never considered that question; but, reserving the details, it could be done. As a matter of fact, it is partly done to some extent to-day.

56,376. In what respect is it done to-day?—All deeds that are sent to me are sent to be recorded for publication. If a man sends a disposition to me to be recorded for publication and preservation, then I copy the deed in exactly the same way as I am doing just now, and deal with it through the three steps I have described, but this word "preservation" in the warrant to record makes all the difference. In that case, after I have copied the deed I send him another copy of the deed, and I pass the principal deed for safe custody on to the Keeper of Records.

56,377. Are those cases frequent?—I cannot give the exact number, but I may say, yes, they are fairly frequent.

56,378. Do you think there would be advantages from the point of view of organisation in combining those two departments?—It would mean, of course, that I would have to take over part of the existing staff.

56,379. Would it, in your opinion, be the case that if the two departments were combined, the staff could be more economically applied to the work?—I believe there might be some economies effected.

56,380. Returning once more to the question of engrossing, which affects both the Register of Sasines and the Register of Deeds, has the question of substituting some other method of record than transcription in handwriting been considered?—That question has been more or less before the legal profession and the people connected with the Register House since so far back, I think, as 1838, when there were the first hints of it; but nothing came of it. In 1863 there was a very determined move in the direction of printing; that fell through on account of the expense, and that is the objection to it to this day. Then in about 1895 and subsequent years there was the system of photolithography of the deeds suggested, and, as a matter of fact, that question in the shape of a report by me is before a Commission appointed to consider questions of Scotch law which is sitting at Edinburgh at present.

56,381. That question was reported on by Lord Low's Commission some years ago?—It was.

56,382. That Commission reported in favour of photo-lithography as a means of recording?—I think it was photo-zincography in those days. It is now photo-lithography.

56,383. What is the Commission considering it at present?—It is a Commission sitting on the question of Conveyancing—trying to shorten deeds and alter the law of entail—and this matter came up incidentally.

56,384. Who is the President of that Commission?—Sir George Paul, and Mr. Whitelaw, solicitor, of Dumfries is Deputy-Chairman.

56,385. Has the question of typewriting of deeds also been considered?—It has been considered, but there is a hesitancy about accepting that, because we are not satisfied as to the permanency of the record so framed.

56,386. Those questions do not directly affect this Commission except as bearing on the question of the organisation of the staff; but if some mechanical method of record, such as photo-zincography, were introduced, that would completely solve the difficult questions connected with the engrossing staff?—That is so.

56,387. If typewriting were adopted as the method, probably that could be done as elsewhere by a female staff. Has that question been considered?—So far as our building is concerned, of course, we could quite well adopt the system of typewriting, but that is a change which could not be effected, I submit, without the consent of Parliament.

56,388. Do the existing statutes prescribe hand-writing as the method of record?—No, but I think I would be afraid to move without an Act of the Legislature, as it is such an important thing.

56,389. (Lord Dundas.) Are you aware that the question of the Keeper of the Sasines communicating direct with the Secretary for Scotland came up incidentally and was observed on in the course of a case in the Court of Session lately?—I am.

56,390. Did the Lord President and the other judges who took part in that decision express the view that such a procedure was irregular—"incorrect" was the word used?—I do not happen to have the report. As I read the instructions I thought the objection there taken was partly to my procedure, which was merely laid down by my predecessors, in sending papers to the Secretary for Scotland.

56,391. My question is, are you aware that the Lord President in that case said that he had no doubt that it was an incorrect procedure—that the Keeper should communicate direct with the Secretary for Scotland. If you are not aware of it, say so?—I am not aware that that was the purport of it. I do not read it as such.

56,392. (Mr. Graham Wallas.) You were appointed in 1910. Do you mind telling me what was your age at the time of appointment?—52.

56,393. It was part of your warrant that you were to retire at 70?—That is so.

56,394. So that your maximum time of appointment was 18 years?—Yes.

56,395. You were a Writer to the Signet?—Yes.

56,396. Had your work as Writer to the Signet brought you into particular contact more than is the case with other Writers to the Signet, with the procedure of the Register of Sasines?—No, I would not say more.

56,397. No more?—No, not more.

56,398. How many years do you think it would take you to arrive at full efficiency as the Keeper of the General Registry?—Of course, as a practising solicitor, I had a great deal to do with registration.

56,399. I know; but when you first went into the office of course you had a good deal to learn?—Yes.

56,400. At what time do you think you reached your full power of directing and criticising the work of a rather complex organisation?—I hope with modesty, I may say, perhaps a year.

56,401. Your office is pensionable?—It is.

56,402. Were years added to your office, or were you only to be pensioned at 18 years' service?—Pensioned at 18 years' service.

56,403. There are no added years?—Nothing added.

56,404. You said you thought it desirable that the method of reproduction should form the subject of legislation to be initiated by a commission, and you indicated that that legislation ought to lay down in your judgment a particular method of mechanical reproduction?—Yes.

56,405. Do not you think it would be better if that legislation left it so that the particular kind of pen and

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[Continued.]

ink to be used should be a matter of future discretion?—I meant the sanction to change from the present manuscript.

56,406. But do not you think the kind of legislation that is wanted is legislation which will allow of the adoption of any method of improved reproduction without laying down any particular method to be accepted?—Yes, I am afraid I did not properly express myself. I meant, of course, merely the sanction to change.

56,407. You think that without legislation it would not be possible to substitute either the typewriter or the camera for the pen in reproduction?—I think it would be safer for the keeper at any rate to get that protection.

56,408. What danger does the keeper run supposing he had the thing typewritten as it is done at the Probate Office, Somerset House? What would happen to you—penal servitude? Who is the competent authority to decide that you have done wrong, and what would be the penalty?—I think the objection would arise not in that way, but from the legal profession, as to the question of the permanency of the record.

56,409. That you might be blamed by the profession?—After I was away and not able to defend myself.

56,410. At present you say you cannot use the services of women because legislation would be required in your judgment to adopt typewriting. But women can also use a pen?—Oh, yes.

56,411. Is it not possible to use women straight-away now in the copying work even if they have to use pens?—It would be quite possible. The answer to that is: Would you propose that I should dispense with all the men and employ women?

56,412. I suppose vacancies occur from time to time?—I do not think the building would be suitable for mixing the staff.

56,413. It must be either one thing or the other?—We could take them by floors, so to speak.

56,414. But if the two offices, the Register of Deeds and the Register of Sasines, were put into one organisation, it might be possible to draft the men bit by bit into one office and fill the other with women?—Yes, that could be done.

56,415. And you see nothing against it in the whole work, and just as the women take on the Savings Bank work in London, the whole work of your office, up to the directing, might be done by skilled women in your judgment?—So far as the engrossing is concerned.

56,416. Could not a woman be trained to do higher work?—I am afraid none of the ladies yet, or only very few—two or three of them—have gone in for legal training.

56,417. (*Miss Haldane.*) You say, "Transference of clerks from departments of the Register House to the Sasine Office and *vice versa* have occurred, but they are rare." Do you think there ought to be more opportunity for clerks to be transferred from one department to another?—I merely state the fact. It is a fact that there have been very few changes, but the work is so different that I do not think they would care for a change.

56,418. Do you think it would be a better system if there were an opportunity of transferring clerks from one department to another?—I cannot speak for the Keeper of Records; but, speaking for my own office, I would prefer when vacancies occur to fill them up with men who had had continuously experience in legal employment and had acquired legal experience. The moment they go into the Record room there is very little of it legal work.

56,419. You think they had better keep to their own line, you mean?—I am afraid it is so.

56,420. I should have thought they might wish to have an opportunity of changing their line of work?—I am afraid a man who had been ten years in the Record room would have forgotten a great deal of the law that he had learnt, and he would not be so satisfactory, and then, of course, he would be coming to me with that seniority.

56,421. I understood you to say that there are no women employed in your office?—None whatever.

56,422. But you see no objection to employing them in engrossing, anyhow, if the housing conditions were suitable?—None whatever.

56,423. And if typing were adopted?—If typing were adopted ladies would get in certainly.

56,424. But they could not be admitted to the clerkships until the legal profession is open to women. Is that your point?—Yes.

56,425. As I understand, women could not at present be used in the clerical staff?—No.

56,426. According to the regulations, not until they are admitted to the legal profession?—There are no regulations.

56,427. Would it be possible to use women for the clerical work in your office?—As engrossers.

56,428. But would it be possible to use them as clerks?—As the commissioned staff?

56,429. Yes?—I am afraid not, because few ladies have legal training.

56,430. Supposing they had legal training, would it be possible to appoint them at present to the commissioned staff. Is there anything to prevent them being appointed according to the regulations?—I do not appoint them. The clerks come in by Civil Service examination.

56,431. Would it be possible for women to go in for that examination, or is it barred to them?—I could not answer that question. My impression is that it is barred to them.

56,432. It has occurred to me that you must at present be having some difficulty with your staff. I suppose you have a good many men who have enlisted?—I have 20 men away, and 5 men are to-day in London in the War Office.

56,433. How are you filling up your vacancies?—I have not filled them up at all. Our work, owing to the war, has decreased. I called the staff together, and they agreed that it was the right thing that these men should go if they wished, and they who remained would undertake to carry on the work to the best of their ability without further men being brought in.

56,434. I wanted to ascertain whether it was at present possible, supposing you find your difficulties become yet greater, to fill up with qualified women if there were such?—In the commissioned staff, if the Civil Service Commissioners allowed ladies to sit and pass in, I could make such arrangements that the ladies could get the work.

56,435. But you are not aware as to whether, if a woman applied to the Civil Service Commission, she would be allowed to sit for the examination?—No, I have not a copy of the rules before me now.

56,436. (*Sir John Kempe.*) As to previous qualifications: Yours is really a professional office, and you would like to have young professional men to fill it?—Yes.

56,437. And you say the work of your office is the registration of deeds as against the registration of title?—Yes.

56,438. The registration of deeds wants much less professional qualification than the registration of title?—My answer was that it was the registration of deeds as distinguished from the registration of title, but gradually the Sasines Office is approaching to registration of title. A very important step was taken the moment our searches became guaranteed. One cannot say what may happen, but the ground work of the registration of title will be found to be embedded in the search sheet and in the guaranteed searches.

56,439. But the work is different from the Land Registry in England?—Quite different.

56,440. A professional qualification is absolutely necessary there because a clerk has to understand Chancery work and all kinds of things?—Quite so.

56,441. You think for that reason a lower qualification is wanted in the case of the registry of deeds? The Land Registry prefer not to admit clerks who have not got a professional qualification, as they say it is absolutely necessary. You do not say that?—I maintain that really we are now getting to such a stage that a professional training is necessary.

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[Continued.]

56,442. Is there an appeal against your registration?—Of course, we are all subject to the control of the Court. It happens very seldom.

56,443. But your registration is final unless there is an appeal?—It is final.

56,444. Could the appeal be made at any time

or must it be made at once?—Our registration is quite different from the registration of title. What is the ultimate effect of registration in my office is a question that is constantly being settled in the courts.

56,445. You do not have maps?—No.

ONE HUNDRED AND THIRTY-FIFTH DAY.

Thursday, 20th May 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Miss HALDANE.

Mrs. DEANE STREATFEILD.

Mr. E. W. H. MILLAR (*Secretary*).

Sir KENNETH MACKENZIE, Bart. (King's and Lord Treasurer's Remembrancer, Scotland), called and examined.

56,446. (*Chairman*.) What is the office which you hold?—I am the King's and Lord Treasurer's Remembrancer in Scotland.

56,447. How long have you held that post?—I have been King's Remembrancer since February 1900.

56,448. What had been your experience before that?—Prior to that I was nine years inspecting officer in the Scotch Local Government Board, and before that I was in the Army for 10 years.

56,449. As King's and Lord Treasurer's Remembrancer have you any contact with the legal offices?—I am the banker for all the Scotch departments practically, and I am the accounting officer for the Law Charges Vote, and for the Register House Vote.

56,450. Do you actually pay the salaries of the officers in the legal offices?—Yes.

56,451. You also have to advise on all matters which concern the Treasury in relation to those offices?—Yes; I am supposed to be able to give any information as to salaries, and such things, in Scotland.

56,452. You have also served on various committees which have inquired into matters connected with the legal offices?—I have.

56,453. For instance, the Committee of 1911 on the Minor Legal Offices?—Yes.

56,454. Were you also a member of the Committee on the Conditions of Service of the Engrossing Staff?—Yes.

56,455. I propose to deal first with the offices more directly connected with the Court of Session. We have had details of those offices and of the method of appointment. Nearly all the persons serving in those offices are appointed directly by the Crown on the advice of the Lord Advocate?—Nearly all.

56,456. No particular qualifications are laid down by statute or otherwise whether as regards previous experience or age?—Not for the clerks in the Court of Session. There are certain qualifications required, for example, for the Auditor of Court, who is required to be a law agent of three years' standing; I do not suppose you could have an Extractor who had not had a certain amount of legal experience, but I do not think there is any necessary qualification for an Extractor.

56,457. Looking at the appointments that have been made, can you give any general opinion as to the principles which have guided the Lord Advocate and the Crown in selecting persons for appointment?—I do not think I could. These appointments are absolutely in the Lord Advocate's hands.

56,458. Has it been the practice often to promote from a lower to a higher appointment, or have the higher appointments generally been filled from outside?

—Promotion has taken place, but very frequently the higher appointments are filled by a new man.

56,459. Has it often been the case that the Lord Advocate's clerk has been appointed to an office in the Court?—Yes. Most of the Depute and Assistant Clerks of Session have been Lord Advocate's clerks at one time or another; I think eight out of the present 14 have all been Lord Advocate's clerks at different times.

56,460. We have heard from some of the witnesses who have already been before the Commission that it is a matter of common knowledge that political considerations enter largely into the question of the appointment in many cases. Can you confirm that?—I suppose that is unavoidable under party Government.

56,461. Would you say that it is perfectly well recognised under the existing system that that is a legitimate consideration to take into account?—I should say so, certainly.

56,462. Do you consider that the system has worked satisfactorily, as judged by its results?—It has worked out, I should say, better than you could expect such a system of appointment to do. I mean, I do not think there is any great complaint as to the way the work is done.

56,463. Do you consider the system of appointing from outside to the higher posts has a discouraging effect on those who hold the other posts?—I think the system of appointing direct from outside to the higher posts really, I might almost say, damns the principle of appointing in that way, because if your junior men who have been appointed by patronage are not fit to be promoted they ought never to have been appointed to their positions. That is the view I would take about that, I think.

56,464. Then you would be in favour of a system of regular promotion from below provided that the men are fit for promotion?—Yes, distinctly.

56,465. You think that that would be preferable to the present system?—Undoubtedly.

56,466. We will deal later with the question of whether the offices can be consolidated into a single service; but clearly, if that is possible and desirable, it would facilitate the question of promotion from below?—Very much. The larger your body, of course, the better and easier it is to promote.

56,467. As regards the method of appointment, do you consider that nomination is the best method, or, if you had a consolidated service with promotion from below, would it be possible or desirable to substitute any other system, such as competitive examination?—Personally I would prefer competitive examination. I do

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[Continued.]

not see why for a certain proportion of the Court of Session officials you should not have regular Civil Service men.

56,468. Would you make it a purely open competition, or would you require any previous legal experience, as is done at present in the case of the Register House departments?—If there is a regular promotion system, and if men go in at the bottom, I do not think that previous legal experience should be necessary—in that I am not speaking for everything.

56,469. Taking the departments of the Court of Session as a whole, and leaving out a special and technical department like the Teinds Office, do you consider that the work could be learnt by a man coming in, say, at the age of 20 without previous experience?—I do not see why he should not learn it. After all, second division men go into offices like the Local Government Board and the Board of Control where they deal very largely with Acts of Parliament and become quite expert in them. In Scotland I am also Registrar of Joint Stock Companies, and my men come in as second division men and they become quite expert in joint stock company law.

56,470. In the evidence we have had about the English Legal Departments a good deal has been said by some witnesses about the legal attitude of mind and the legal point of view that is acquired by clerks who serve some years in a solicitor's office. It has been said that that point of view and attitude of mind is difficult to acquire except in a solicitor's office. Do you agree with that, and if you agree with it, do you attach any importance to it?—I do not know that it is necessary for service in a solicitor's office to give a man that attitude of mind. Not being a lawyer myself I speak with diffidence on such a point as that; but I do not see why these men should not learn their work in the same way as men who have to administer law in other departments.

56,471. Naturally, when they first enter they would be doing their work under instructions from those already in the office?—Yes, they are trained from the start. They come in knowing very little, but they would be taught, and if they cannot learn it then I think they should not be promoted and should be got rid of.

56,472. Is the result of the present system that promotion is decidedly slow?—Yes. No man ever knows if he is going to be promoted under the present system.

56,473. It is both slow and also uncertain?—Yes.

56,474. Do those observations apply also to the Register House departments—to the Register of Sasines and the Record Office?—No, because those men are regular pensionable men. You are not talking of the engrossers in those offices?

56,475. No, apart from the engrossers?—The actual staff of those offices rise; they are promoted in succession.

56,476. In those offices is there what you consider a satisfactory flow of promotion?—Yes, I do not think there is anything to complain of there as regards the permanent staff.

56,477. Your statements about promotion apply specially to the departments of the Court of Session?—Yes.

56,478. Turning now to the question of organisation, do you consider the present organisation satisfactory?—On the whole I should say, yes.

56,479. You have expressed the opinion that a more satisfactory system of promotion could be introduced, and that there might be a more satisfactory staffing of the departments if the organisation were altered in the direction of unification?—Yes.

56,480. Will you explain that more fully?—I understood you to mean by organisation whether the work really was done to the general satisfaction of the public, and I think that that is so done. At the same time I think that certain economies might be brought in without sacrificing any efficiency, and I think you would make the men in the service much more contented if they knew they were going to go in at the bottom and had the hope some day of rising to the top.

56,481. Will you explain what is the nature of the unification and consolidation which you think might take place?—I have suggested a sort of consolidation in my précis. Before we go into that may I be allowed to say that this précis was written before I had the opportunity of consulting one or two people who know a great deal more about this than I do, and I would like to amend this précis by taking out the suggestion that the Principal Clerk of Justiciary should be thrown into the consolidation?

56,482. Will you explain the consolidation which you contemplate, with such alterations in the scheme sketched in your précis as you think desirable?—Premising again, of course, that I have never had any legal training, I think it is possible that one might have a consolidated service under a Principal Clerk of Session, and that he would not require the Principal Clerk of the Bills, which we have just now, and the Principal Extractor. I think those men could probably be both replaced by men in their offices at the present moment who might be put on the same footing as Depute Clerks of Session. The post of Keeper of the Minute Book has been recommended for abolition when a vacancy occurs for a good long time.

56,483. Then the sub-departments, which are at present under the Principal Clerk of the Bills, the Principal Extractor and the Keeper of the Minute Book respectively, would become parts of the general office of the Court of Session under the headship of the Principal Clerk of Session?—Yes.

56,484. You think that the work of each of those particular branches could be supervised and managed by an officer of the rank of a Depute Clerk of Session?—Yes, I think so.

56,485. You think that the Justiciary Office could not be conveniently brought into a consolidation of that kind?—No, I do not think the Justiciary Office or the Crown Agents' Office could possibly be brought into a consolidation of that kind. I did originally think that the Justiciary Office might be, but since I wrote this précis I have had the advantage of speaking to one or two men who have been Lord Advocates and men who have been judges, and they have convinced me that the opinion I had about that was quite wrong.

56,486. Will you give us the reasons which make you think it ought not to be included?—It is a very small department. There is only the Clerk of Justiciary and two men under him permanently, and they have a temporary man who sometimes comes in as a sort of learner to learn the work. The work of the Justiciary Court is, I am informed, very technical, and the least slip, or anything going wrong, would lead perhaps to a malefactor of the very worst type getting off. Now it would not be to the interests of the country that such a thing should occur, and as there are occasions when the two men who are under the Principal Clerk of Justiciary may be both away on circuit in Glasgow, I think you must have another man in the office.

56,487. The work is of so special and technical a character, and so entirely distinct from the civil work with which the Court of Session deals, that you think it requires to be maintained as a separate office?—Yes. You are aware that, though the judges of the Justiciary Court now are the same as the judges of the Court of Session, the Court of Session and the Justiciary Court always were two entirely separate courts.

56,488. If the consolidation which you have sketched were carried out, the staff of the various sub-offices would naturally fall into their places in whatever classification was adopted for the staff of the consolidated office?—Yes.

56,489. In that case, the whole being a single office, transfer could take place freely between different branches of the office if it were desirable?—Of course that would be essential to carrying out the scheme properly.

56,490. That would be essential, I suppose, both for the purpose of making men thoroughly acquainted with all branches of the work, and also for the purpose of securing proper arrangements for promotion?—Yes.

56,491. And for preventing promotion in one branch of the office being more rapid than in another?—I think it is essential that a junior man who comes into

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[Continued.]

an office should go from department to department while he is a junior to pick up the beginning of each branch of the work.

56,492. You see no reason why a man going into the office at the bottom should not become familiar with all the branches of which we have been speaking?—No; I think he very easily could.

56,493. In a scheme of that kind how would you deal with the Teinds Office?—The Teinds Office, of course, is a particularly technical thing, but it has been filled really in that way—the present Interim Clerk of Teinds has risen to his position simply by working up through the office under the previous Interim Clerk of Teinds. I again speak under submission to the opinion of judges and others, but I am not at all sure that that office could not be staffed as part of this general scheme in that way.

56,494. It would probably be possible to put it under the supervision and control of the head of the consolidated office, even though it might be necessary to maintain a separate staff for that particular work?—It might, perhaps, be necessary for him to ear-mark one man as an understudy to the interim clerk to learn the technicalities. Teinds, of course, are going out, and I suppose they will not go on for ever.

56,495. The work of that office is diminishing?—It must diminish.

56,496. Turning to the departments in the Register House, that is to say, the Register of Sasines, the Register of Deeds, and the Record Office, would it be desirable to carry the consolidation so far as to include those departments, or is it better to keep them entirely separate from the offices of the Court of Session?—I think they must be kept entirely separate from the Court of Session.

56,497. Do you consider that the organisation of those departments is satisfactory at present—I mean by organisation the hierarchical structure of those offices and their relations to one another?—Perhaps there is a little feeling between one or two departments there.

56,498. We have heard that questions have been raised as to the exact relations between the heads of some of those offices and the Deputy Clerk Register. Is it your opinion that the Deputy Clerk Register ought to be actually responsible for all these departments, or do you consider that it would be better that the heads of the separate departments should be independent of his control and report direct to the Secretary for Scotland?—May I say that it is entirely my personal opinion that I state now, and my personal opinion is that you can only run an office by having one head.

56,499. How do you apply that principle in the present case?—Again I say this personally. I suppose there is no secret about this thing, but the contention of the Sasines Office is that it should stand upon its own feet. Well, I do not think it should. I mean in all questions of importance which are to be referred to the Scottish Office I think they should be referred through the Deputy Clerk Register. The argument which I understand is advanced in favour of the Sasines Office standing on its own feet is, that the Keeper of Sasines holds a Crown appointment. I think it is a novel idea which has come in.

56,500. The question which the Commission desire to consider is, whether, looking to the future and looking to the question of what is the best organisation in those offices, it is desirable that the control of the Deputy Clerk Register over the Sasines Office and the Deeds Office should be complete and real, or whether it is preferable that the head of the Sasines Office should be independent, and should report direct to the Secretary for Scotland?—I am of opinion that the Deputy Clerk Register should be the head of his department.

56,501. Including in that the Office of Sasines?—The Record Office, the Deeds Office, and the Sasines Office.

56,502. Do you consider that any alteration should be made in the relations of those offices to each other? I mean, ought there to be any amalgamation between any of those offices?—They do different work. I do not think you could amalgamate them very well. At present the Deputy Clerk Register has the power of moving

any member of his permanent staff from one branch to the other as he thinks fit.

56,503. That is to say, a clerk in the Record Office or Deeds Office could be moved to the Office of Sasines, and *vice versa*?—Yes, under the Act I think it is so.

56,504. Would it be possible to amalgamate the Deeds Office and the Sasines Office? The work of those two offices appears in many respects to be very similar. It consists in receiving legal documents for registration and having them copied into books. The only difference appears to be that in the one case the original deed is returned to the person who presents it, and in the other case it is retained in the office. Would it not be possible to place those two offices in closer relation and under a single head?—I am bound to say I never thought of the idea until just now. You have engrossers in those two departments, and I certainly see that it might be an advantage at the May Term, when the work of the Sasines Office is very heavy, if they could turn on some engrossers; but, on the other hand, of course, I always think the engrosser's is an extremely bad trade, and I trust this Commission is going to deal with the engrosser. The Sasines Office is already a pretty big office for one man to supervise; it has a good large staff, and there are a large number of these engrossers. I should have thought myself it would have been easier to combine the Deeds Office and the Record Office, both of which are small. I think you do not want both a keeper of the deeds and a deputy-keeper of the records.

56,505. You think that that combination would work better than the other—that it would be better to combine the Deeds Office with the Record Office?—I should have thought so myself, but it is not a thing I have gone into, and I would rather like to go into it a bit before saying anything definitely. It certainly appeared to me before that there should be one head, from a financial point of view. I do not think you require both the deputy-keeper of records and the keeper of the register of deeds. I think one higher class man is sufficient. I think it would be quite possible to do away with the keeper of deeds, and hand his duties over to the keeper of the Sasines Office. There may be Acts of Parliament, or something which one has not at one's fingers' ends, which might affect that.

56,506. We were told by the Deputy Clerk Register that his work as Registrar-General occupies so large a part of his time that it was difficult for him to give the necessary attention to the work of the Register House departments—the Sasines Office, the Deeds Office, and the Record Office—and he suggested that it would be desirable to separate the office of Registrar-General from that of Deputy Clerk Register. Are you prepared to express an opinion on that?—I suppose Sir James Patten MacDougall knows what he is talking about, but I should have thought myself that one man could undertake the two duties quite well.

56,507. You do not think it ought to be too much for one man?—No, I do not. No doubt, in the years when arrangements have to be made for a census, there is considerable pressure on the Registrar-General, but, ordinarily speaking, I do not think the work is very heavy.

56,508. Ordinarily, I suppose the Registrar-General's work ought to run like a machine, with very little attention from the head of the office?—That is what one would think. After all, the work is largely looking up the date of births for old age pensions and things of that sort, and ordinary registration which is done, not by the head of the department. I have no doubt that preparation for a census involves him in a considerable amount of work.

56,509. In those Register House departments the method of recruitment is by competition subject to certain preliminary qualifications?—Yes, there is a special examination paper which is set; certain things are required. It is not the ordinary competitive Civil Service examination.

56,510. It is a competitive examination, and certain qualifications of service in a solicitor's office are necessary for candidates to be admitted to it?—I am not sure whether, under the last arrangement, those qualifications are required.

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[Continued.]

56,511. We were told that service of five years in a solicitor's office is required in the case of ordinary candidates, and three years in the case of university candidates, and also that boy clerks and engrossers, serving in the department, who used formerly to be admitted to the examination, are no longer admitted. Do you consider that those service qualifications are necessary in the case of the Register House departments?—No, I think they are totally unnecessary.

56,512. You would make the examination purely an open competition?—Certainly.

56,513. At what age?—I think the ordinary second division examination. A second division man I think is perfectly competent to do that work. Of course, he does not go in at the head of his branch but at the bottom, and any knowledge necessary he would pick up in the office.

56,514. Would you take the men from the ordinary second division examination or have a special examination?—I should take men from the ordinary second division.

56,515. Would there not be some advantage in getting men who definitely wished to enter this department, the work of which is of a rather special character, and not men who merely desired to enter the Civil Service generally?—You mean by that men who are in legal offices?

56,516. Or men who had an antiquarian turn of mind. If you have a separate examination for admission to these departments, then men would go in for that examination who thought that they would personally be suitable for the work of those departments, and that the work would be of a kind to interest them; whereas, if you take a man from a general Civil Service examination, you may get a man who has no turn in that direction at all. I put that to you as a consideration which might tell in favour of having a separate examination, and ask whether you attach any weight to it?—I think in a staff of the size that you would have at the Register House you would be quite certain to find a sufficiency of men with antiquarian tastes to fill all the posts required. Those posts are very few.

56,517. There are very few posts where the work is of an antiquarian character?—Yes, I should say very few.

56,518. In the remainder of the posts where the work is not of an antiquarian character it is of a definitely legal character for the most part?—Yes, but I do not think you would call it very high legal work, either in the Sasines Office or the Deeds Office.

56,519. Perhaps not very high legal work, but we were told, for instance, that a substantial part of the work of the second class clerks in the Sasines Office consists in reading deeds which are presented and abstracting the essential particulars of those deeds in the form of a minute. That is work not of a very high character, but still of a definitely legal character. It means the reading and interpretation of deeds. My point is, given that the work is of that character, much of it legal and some of it antiquarian, whether there is an advantage or not in having a separate examination for recruiting the department, or whether you will get men adapted for the work and to whom the work is congenial by taking them out of the general Civil Service examination?—I think you would get men to work it very satisfactorily if you took them out of the general Civil Service second division men. Again, may I say that is only my idea and I do not wish to press it.

56,520. In any case, whether you had a separate examination or not, you would do away with the qualifications of previous service?—Yes, I think they are quite unnecessary.

56,521. You mentioned the question of the engrossers, and you told us that you were a member of the committee which sat to inquire into the case of the engrossers?—That is so.

56,522. That committee recommended, but, I think, reluctantly, the maintenance of the system of piece-work?—That was so.

56,523. Should I be correct in saying that that recommendation was made, not because there were no

objections to the system, but because it was difficult to devise a better one?—Certainly, that was the case.

56,524. We have heard that the question of substituting a mechanical method of reproduction, photographic or other, has been and is under consideration?—Photo-zincography do you allude to?

56,525. That was the particular method considered by Lord Low's Commission?—Yes.

56,526. We have been told that another commission is now sitting on the question of land tenure in Scotland, and that the question of the method of registering the deeds in the Sasines Office is under their examination too?—I am not on that committee and I could not say.

56,527. This Commission is not directly concerned with the method of reproducing the deeds, except as bearing on the organisation of the staff. If a mechanical method of reproduction were adopted that would solve the difficulty as regards the engrossers, except, perhaps, the difficulty of disposing of the present staff?—Yes.

56,528. Supposing it was found impracticable to change the present system, and it was necessary to maintain the copying staff, have you considered whether it would be possible to devise any pension scheme for that staff other than the Civil Service scheme which, under the existing law, is not applicable to them?—It was not actually thoroughly worked out, though there had been one or two proposals. I think it could be done, and I think one could pension off the engrossers after they get to 50, and substitute typists for them, and it would not cost more than it is costing at present, and in the end, of course, it would cost a great deal less.

56,529. That is assuming that typewriting might be substituted for handwriting in the reproduction of the deeds?—Yes, I believe there can be no objection to that now, because I understand from the Stationery Office that typing-ink is now absolutely indelible, and you can type now by these new machines into a bound book, which you could not do before. They have now, at the Land Registry, machines which run up and down the book. The objection before was that you would have to give out loose leaves which would have to be bound, and if a leaf was lost there would be a difficulty; but that is obviated by this system, so I see no earthly reason why typing should not be brought in.

56,530. If typing were adopted, do you propose it should be done by a female staff?—Most certainly.

56,531. Do you propose that they should be paid by piece or by salary?—By salary, I think. I would have the regular established Civil Service typists.

56,532. The committee on which you served, and other committees, have reported that in the case of men copyists it is impracticable to have a system of payment by salary, and that a system of piecework is indispensable in order to get the work done economically; but it seems to be universally admitted that if women typists are employed, they can be paid by salary without that inconvenience resulting. How do you explain that?—The pay of the male engrosser is entirely owing to what he does; if he earns small pay he does very little work; if he makes biggish pay it means he works very hard indeed. On the other hand, our experience of the girls who type in Government offices is very satisfactory; they do a very fair day's work, and when you have a certain number of them you generally have a lady superintendent who looks after them, and sees that they do a fair day's work.

56,533. Would not it be possible to have a similar discipline in the case of men copyists? Would not it be possible, for instance, to have a certain standard of work which must be performed in each day? A slow writer would perhaps have to take longer hours over it and a quick writer would do it quicker; but with a standard of work you would secure that work representing the salary would be performed?—I do not know that that would be very agreeable to your quick writer. Your quick writer wants to earn money, particularly when he is young. I do not think he would be very pleased if he was told that he would get so much a week when he knows, if left alone, he can earn three times that amount.

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56,534. But if you recruited a staff on those principles, you would get men who were satisfied with the advantages of fixity, rather than with the advantages of heavy earnings in their earlier years?—It is dreadful work, purely mechanical, all their lives copying, if you are going to start a staff of that kind with the understanding that they are going to copy all their lives and get a pension at the end.

56,535. But would not your female staff understand that?—A female staff copy, but then they marry sometimes and go away; they may get better positions.

56,536. You mean that women would not be necessarily bound to that for their life's work in the way a man copyist would be?—No, obviously not. Perhaps some women unfortunately are; but I think a good many are not.

56,537. Another objection that was made to a fixed salaried staff was that the work is uneven in flow, and that at certain times of the year there is heavy pressure of work and at other times the work falls off, and a piecework staff is more flexible in dealing with rushes of work than a salaried staff?—Of course, that must be so, because the tremendous rush of deeds into the Sasines Office takes place immediately after the 15th May. All the Sasines Office engrossers are writing as hard as they can for the summer half-year. Not nearly so many deeds come in in November, and a lot of them are compulsorily idle in January, February, and March, because there is no work for them to do; so they have to work as hard as they can in the summer months to make a living to tide them over the bad months.

56,538. How would you deal with those conditions if you had a fixed salaried staff of women?—I think the women would do more work than the men. I think a woman will type more than a man will write in a day.

56,539. We have been told that typewriting may be taken roughly to be twice as rapid as handwriting?—Yes.

56,540. But that would not affect the particular problem I am putting to you. How, with a salaried staff, would you deal with the conditions under which the work comes in, namely, that in a certain part of the year you have a great deal of work, and in another part of the year a small amount of work? It could be, no doubt, dealt with to some extent by giving the staff their holidays in the slack period of the year; but would that make a sufficient adjustment of the staff?—Of course, it is unavoidable that you must have a busy time and a slack time, whether you have a staff paid by piecework or a staff paid by salary.

56,541. But if you have a staff paid by piecework they will readily work long hours in the busy times, and though they may not be content, still if they have to work short hours in the slack time, they will only be paid accordingly; but if you have a fixed salaried staff you have them sitting doing nothing in the slack time of the year, and unless you work them heavily by overtime you will not have enough staff to do the work in the busy time of the year?—My view rather is, that as a woman types so much quicker than a man writes, a staff of women typists would overtake the work after the May Term just as quickly as the engrossers do at present and get the deeds out.

56,542. Then that staff would be more than sufficient in the slack time?—They would.

56,543. What would you do with them then?—They would be idle just as the engrossers are now. They might be made use of in some other way perhaps.

56,544. That appears to me to be a somewhat difficult problem in dealing with this work by a fixed salaried staff?—I agree it is not simple.

56,545. It may, perhaps, be met to some extent by fixing your leave season in the slack period of the year, but that has the drawback that the slack period of the year is the winter, which is not liked for the holiday season. It may also be met to some extent by overtime in the busy season. But even if you apply both those devices, it appears to me that there is considerable difficulty in dealing with work, which varies so much as this does in its incidence, with a salaried staff?—That is quite so. There is great difficulty in working it, however you try to do it, I think.

56,546. Would the difficulty be met to some extent if the engrossing staff of the Sasines Office and the Deeds Office were united, or were, at least, transferable from one to the other?—You mean the engrossers in the Sasines Office could do the Deeds Office work in their slack time, and *vice versa*?

56,547. Yes. I understand that the work of the Deeds Office is more even in its incidence throughout the year?—It is. I understand there is a sort of steady flow in the Deeds Office which just keeps them going and no more in the year. I should think some of the Deeds Office work might be allowed to get into arrear so as to be taken up in the slack season.

56,548. So that if you had a combined staff, or at any rate an interchangeable staff, that would assist in solving the problem?—I suggested it once before I think, and the suggestion was not received with favour by the Sasines Office or the Deeds Office—that was with reference to the men engrossers.

56,549. It would facilitate such an arrangement if the offices were combined?—It would.

56,550. Supposing it were not practicable to change the system and employ typing, or adopt mechanical reproduction, and that, therefore, the present staff had to go on, would it be possible to devise a contributory pension scheme for the engrossers?—Do you mean to which the nation should contribute?

56,551. Yes. I mean a system under which the men themselves would contribute a certain percentage of their pay. That contribution would be supplemented partly by the gratuities to which the men are entitled under the present system, and, possibly, by an additional contribution by the State. We have been told that a contributory system exists, for instance, among the officers administering the poor law in England, and it would seem that a system of that kind might be devised to meet the case of the engrossers?—I suppose it might be.

56,552. Would not a system of that kind remove one, at any rate, of the difficulties and hardships which attend the present organisation. I mean the difficulty of providing for the men when they are getting old and beyond their work?—I think what the engrossers feel as a hardship more than the want of pension is that they get practically no holiday except a compulsory holiday at a bad time of the year, and that they get no sick leave. If a man is at all ill, or anything of that sort, in the middle of his busy time of the year, he has to drop his income, because he cannot get three or four days' sick leave.

56,553. Is there any mutual arrangement for providing for sickness?—I think when the Committee sat we found that they had a sort of mutual fund, out of which certain sick benefit is paid.

56,554. We have been told that among the scribes of the offices of the English courts there is a system under which, if a man is ill, the work that he would have done is distributed among his colleagues, and, up to a certain sum, he receives payment for it?—Yes, I remember Mr. Stringer telling us that, at the Committee on which we sat.

56,555. Is the system in the Sasines Department similar to that?—I think it is something on the same lines. You will find it in the report of that Committee at page 18: "The subscription is 24s. yearly, the sick benefits are 1*l.* for 13 weeks; 15*s.* for the next 13 weeks; and 10*s.* for the following 26 weeks, and 10*l.* is given as a funeral allowance."

56,556. Does that adequately meet the requirements in the case of sick leave?—This, you see, is their own money. What I mean by their not getting sick leave is, that it seems to me the head of the department should have some power to allow these men to be off duty for a day or two if not feeling well, because a man may not be well and, by coming to his work and working all day long, he makes himself very much worse, and then, perhaps, he is off for three weeks or a month. That is what I consider such a hardship on these fellows. The ordinary Civil servant, if he feels unwell, keeps away for a couple of days and then he is all right. I think it is very hard that these men should never be able to get off like that and to be so dependent on

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what they do. An arrangement for sick leave would cost very little.

56,557. The question of the present housing of the offices of the Court of Session has been mentioned in evidence, and it has been pointed out that considerable inconvenience arises from the fact that the offices are at the Register House and that the processes have to be transported daily between the Register House and the courts. It was suggested that it would be very desirable that the offices of the Court should be placed in close proximity to the courts themselves. Do you agree in that opinion?—Yes, it certainly would be a convenience if they could be so placed.

56,558. Would it be convenient or inconvenient to solicitors?—I do not think it would make any difference to the business men, once they got accustomed to the change.

56,559. Would there be difficulty in providing accommodation for them in the neighbourhood of the courts?—Yes, that is the difficulty.

56,560. Would it be possible to find room by transferring to the Register House any offices which are at present in Parliament Square?—I do not think so. The structural conditions of Parliament Square are not such that one could very easily, without enormous expense, make accommodation for these rooms that would be required. I may say that has been under consideration several times, and I have been round there with Mr. Oldrieve, who was the head of the Board of Works in Edinburgh some time ago. Several times we went round to see if anything could be done in that way, but I think the expense would be practically prohibitive.

56,561. Taking your own office, would that be more or less conveniently placed if it were in the Register House?—It would be rather inconvenient in some ways if I was going to the Register House. Among other things I publish the *Edinburgh Gazette*, and notices sometimes are sent over from the Court just before 1 o'clock. If I get a notice five minutes after 1, I cannot get it out that day. There are all kinds of little things like that whereby it is convenient for me to be near the court.

56,562. In dealing with the question of the consolidation of the offices, we have not mentioned the Chancery Office. What do you think ought to be done with that?—I think the Chancery Office, as an office, might, perhaps, be amalgamated. Part of it might go to the Register House, I suppose, and part of it might go to the Sheriff Clerk in Edinburgh.

56,563. Should any part of it be combined with the offices of the Court of Session?—Part of the Chancery Office work is recording, and probably that would have to fall to the Record Office, and the other part of its work could probably be done in the office of the Sheriff Clerk of Edinburgh.

56,564. At any rate, you think it would not be necessary to maintain it as a separate small office?—No, I do not think it necessary to retain it as a separate department.

56,565. Turning now to the system of local courts—the Sheriff Courts—we have had some general evidence on that subject, and we have heard that the staff of the Sheriff Clerks is unpensionable and has no Civil Service status; that it is in some cases part-time, and is appointed by the Sheriff Clerk himself. Is that correct?—Yes, that is all correct.

56,566. Suggestions have been made for a consolidated service. If some scheme of that kind were adopted the staff, it is suggested, would be given a Civil Service status and would become pensionable, and, presumably, the present system of appointment would require modification. Will you give us your opinion on those suggestions?—I am afraid, of course, that any idea of a consolidated service to take in the whole staff of the Sheriff Courts is quite impossible. You have to deal with such very different things. If you take the Sheriff Clerk in Glasgow, for example, he has a staff of 50 or, perhaps, 60 people, and they are all regular men who come into the office every day and work regular office hours. Then, if you go to other Sheriff Courts, taking little places in the country, the Sheriff Clerk himself is only employed for half the day, and all his staff is a boy who may be in the office for an hour, and probably does something

else. I do not see how you can make a consolidated service when you have to deal with such different kinds of people, and so many people who are really not full-timers. I do think that to a certain limited extent one might make a consolidated service among the places that really do what I call whole-time business—I mean the bigger places like Aberdeen, Edinburgh, Dundee, Paisley. There are certain deputies there, I think, who might form part of a consolidated service, and men junior to them would be in another class. But the difficulty I see about it is, who in the world is ever going to be able to promote these men? Supposing the senior man at Glasgow goes, do you think it is at all likely that the Sheriff Clerk in Glasgow will want to take a deputy from Kirkcaldy, say; he will want to promote the next man in his own office. That is the difficulty. No one man can possibly know the whole staff of all the Sheriff Clerks in Scotland and what their qualifications are. I think it would be an immense advantage if you could do such a thing; but it seems to me that one of the impossibilities of doing it is that you could not have a flow of promotion which would be at all equitable.

56,567. Would that difficulty be diminished to some extent if effect were given to the recommendation of Lord Salvesen's Committee in favour of a reduction in the number of Sheriff Clerks?—I think the Sheriff Clerks themselves are a different thing to their staffs.

56,568. At present you have a considerable number of Sheriff Clerks. Lord Salvesen's Committee recommended that there should be one Sheriff Clerk for each sheriffdom; that is to say, the number should be reduced to 15?—That is so.

56,569. Would it not be much easier to devise some committee or some officer who should have a view of the whole of these staffs, and should be able to compare the different staffs for the purpose of promotion, if you only had 15 Sheriff Clerks in place of the 34 at present?—Well, I do not think it would really make very much difference in this way. Though you would reduce the number of your Sheriff Clerks to one for each sheriffdom, you would not reduce the number of your seats of Court and not reduce the number of staffs there are in the different places. Though you would have only one Sheriff Clerk, say, for the Lothians instead of three, as at present, you would still have his deputies at the different places as before.

56,570. But if you had one Sheriff Clerk at the head of the whole organisation of that sheriffdom he would be in a position to obtain information as to the staff in the different places and compare their qualifications?—He would be able to tell you the best of his own staff in his own sheriffdom.

56,571. If the districts were as large as that, each of them including the whole of a sheriffdom, you would have a large enough staff in each sheriffdom to secure a flow of promotion; and transfers between sheriffdoms might only be necessary if there was considerable inequality in promotion in the different sheriffdoms?—The conditions of the sheriffdoms vary very largely. You have the big industrial sheriffdoms, and then you come to the scattered sheriffdoms in the north and west of Scotland. There is a very great difference between a sheriffdom, say, in the Lothians, or in Dumfries, and a sheriffdom in Caithness. That is what adds, I think, so very much to the difficulty of putting these things upon a basis on which one could compare one with the other.

56,572. There would, however, be a staff of a considerable number in each sheriffdom?—I do not think in some of the sheriffdoms it would be very big.

56,573. (*Mr. Boutwood.*) In Caithness, for instance, what would it be?—I am afraid I should have to get the figures. I should not think in Dornoch there is probably more than a man and a boy.

56,574. (*Chairman.*) Would it be possible, if you had a combined service and a reduction in the number of Sheriff Clerks, to have a Committee of the principal Sheriff Clerks for dealing with the question of promotion from one sheriffdom to another?—Yes, if you reduced it to those 15, I have no doubt you could set up a Committee among those Sheriff Clerks to consider the question of promotion.

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56,575. You mentioned that in some places the staff are whole-time, and in other places they are part-time. Do I gather from that that you think it would be necessary to distinguish between those two classes if you were setting up a consolidated service, and include in the consolidated service only those who are whole-time officers?—I do not think you can make anybody pensionable who is not a whole-time man.

56,576. If you had a contributory pension system it would be possible to apply it to part-time officers?—I do not know, because these part-time people make other income.

56,577. They would contribute in respect of the income which they receive and they would be pensioned on that basis; they would make a smaller contribution and receive a smaller pension; but do you see any insuperable difficulty in including them in a contributory system?—No. Of course some of them are so poorly paid that they could not contribute. All the Sheriff Clerks send in to my office an account of the way in which their allowance is spent, and you would see lots of men, even in the big offices, only get 20*l.* a year for their services.

56,578. For their whole time?—Their whole time.

56,579. 20*l.* a year?—At the beginning in some of the big offices. I think I am right in saying that; but I will send you the figures.

56,580. Are those adults?—Those are boys hoping to get on in a Sheriff Clerk's office. For example, in Glasgow, in the Sheriff Clerk's office, no doubt there are some boys only getting 20*l.* in the hope that they are going to get on in that office.

56,581. Do you think, speaking generally, the salaries are insufficient in the Sheriff Clerks' offices?—Of the subordinate people, dreadfully insufficient, I think.

56,582. What remedy do you suggest for that?—I think every Sheriff Clerk ought to be a whole-timer for Sheriff Clerk's work; he ought not to be allowed to do anything else at all. In that case, very often, he would not want so many deputies. There are cases of Sheriff Clerks who, I think, one might truthfully say, do absolutely nothing; they may sign their names once or twice a quarter, and may have very large solicitors' businesses of their own which they are running, and the whole work is done by their deputies.

56,583. If the number of Sheriff Clerks were reduced in the way suggested, it would be easy then to require that they should give their whole time to the service?—Certainly; they would have to then, I think, if they had to supervise three or four offices. I think it would tend gradually to efficiency if that recommendation of Lord Salvesen's Committee was put into effect and the Sheriff Clerks were reduced to one to each sheriffdom and he was made a whole-time man.

56,584. Have you any suggestion to make with regard to the Commissary Clerk of Midlothian?—He is the only Commissary Clerk whose business is not now done by the Sheriff Clerk of the county, and I think that the Commissary Clerk of Midlothian might be attached to the Sheriff Clerks' Office. One of the duties that fall to the Commissary Clerk is, that he has to record the estate of every Scotsman who dies furth of Scotland; and, of course, at the present time, that is a tremendous amount of work.

56,585. That work is somewhat different in character from the commissary work done by the Sheriff Courts?—No, I do not think so. It is all commissary work, only, by law, any Scotsman who dies out of Scotland has to have his estate made up at the office of the Commissary Clerk of Edinburgh. I think it is only three words in an Act of Parliament that would be required to be repealed to take that out.

56,586. You think that that work might be perfectly well done by the Sheriff Clerk?—Perfectly.

56,587. What is the system in Scotland as regards the recording of wills which are presented for confirmation?—If a man dies out of Scotland confirmation has to be obtained from the Commissary Clerk of Edinburgh. Also, if anybody in Scotland dies with no fixed domicile he has to have his estate confirmed by the Commissary Clerk of Edinburgh. In all other cases you must get confirmation at the office of the Sheriff Clerk of the County, who is also a Commissary Clerk.

56,588. The will has to be presented for confirmation?—Yes.

56,589. Is there any compulsory system of preservation of the record of all wills that are confirmed?—They are all in the records of the Court where they are confirmed. If they are in a Sheriff Court they are in the Sheriff Court records.

56,590. The text of the will?—Yes.

56,591. Those records are, as we have been told, preserved locally by the Sheriff Court?—Yes.

56,592. Have you any recommendations to make with regard to the Sheriff Clerk of the County of Edinburgh?—Yes. I think it seems almost unnecessary to retain a Sheriff Clerk of the County of the City of Edinburgh and also a Procurator Fiscal of the County of the City of Edinburgh. I suppose they are retained because it is the capital, and the Lord Provost, as such, is also the Sheriff of the County of the City of Edinburgh. I dare say it is rather just for the honour of it, but I do not think it is necessary for the work.

56,593. You think it might be merged in the County of Midlothian?—I think it might quite suitably be merged in the Sheriff Clerk of Midlothian and the fiscalship equally in the Procurator Fiscal of Midlothian.

56,594. What does the Sheriff Clerk of Chancery do?—He records the services of heirs.

56,595. Procurators Fiscal, as we have heard, are appointed by the Lord Advocate, and their work is, in great part, under his direction?—Yes.

56,596. Would it be practicable or desirable to make the Procurators Fiscal into a regular service with promotion on Civil Service conditions?—I think it would be desirable to have it as a service. It is a little difficult to say as to the Civil Service conditions. A man who is appointed Procurator Fiscal must be a man with a certain amount of experience. You cannot begin at 22 as a Procurator Fiscal. He is responsible to the Lord Advocate for the investigation of every sort of crime inside his district, and he practically must be a man of a certain amount of experience. As regards Procurators Fiscal, I think it is only right to say that there have been several cases of promotion. The present Lord Advocate has promoted several men.

56,597. Would it be the case that a man who had served as Procurator Fiscal in a small place, would be, provided he had the necessary qualifications, a suitable person for appointment as Procurator Fiscal to a larger place?—Certainly; I think so.

56,598. Are any of them pensionable at present?—No. There is one Procurator Fiscal at the present moment who was appointed Procurator Fiscal in Orkney, certainly not very long ago; he was then sent down to somewhere in the Stewartry—Kirkcudbright, or one of those places—and quite recently he was appointed to Perth, one of the principal places in Scotland. That shows promotion is exercised, and a man who begins at an out-of-the-way place like Orkney is considered by the Lord Advocate quite fit to be advanced to a big post.

56,599. Do you think it right to extend that system?—Certainly, so far as he is a good Procurator Fiscal. The Crown Office report to the Lord Advocate how well or badly a Procurator Fiscal does his work. The Procurator Fiscal sends his report in to the Crown Office, where it is considered by the Crown Office staff and Advocates Depute and so by the Lord Advocate.

56,600. In how many cases are the Procurators Fiscal whole-timers?—Nearly all of the recent appointments, I think, have been made to be whole-timers. It is very desirable in places where there is enough work to keep the Procurator Fiscal working. Personally, I think there are drawbacks to restricting a man from any other work where he is in a place where his Procurator Fiscal's work does not occupy his time. I think it is a mistake to appoint a man to a place and say: "You are to do nothing else," when there is not enough work to keep him going. A man, I think, generally runs to seed in that case. May I explain that, though I appear here as a sort of confidential adviser to the Treasury in Scotland, owing to certain circumstances I have not been able to tell either Sir Thomas Heath or

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[Continued.]

Sir John Bradbury what I proposed to say to you to-day, and therefore I am giving evidence not as a representative of the Treasury in any authorised form. It might be well, perhaps, to make that clear. I would have consulted them had I been able, but different things prevented it.

56,601. (*Lord Dundas.*) I suppose, as King's Remembrancer, your primary attitude in considering questions of this kind is financial and economic?—Yes.

56,602. You told us—and I congratulate you on the fact—that you are not a trained lawyer. I suppose I may take it that you have no personal inside knowledge of such departments as the Bill Chamber, the Teinds Office, the Justiciary Office, or the Crown Office?—No, none.

56,603. In considering as to the possible co-ordination of the various departments of the Court into one consolidated office under one head, must there, do you think, in any view, be certain exceptions made?—Yes, I think so.

56,604. I think you mentioned to the Chairman that the Justiciary Office, in your opinion, would be such an exception?—Yes.

56,605. You are not here to suggest that Justiciary clerks could be so co-ordinated as to become simply interchangeable with Civil clerks?—No, because their work is so different that I think that would not do.

56,606. I understand you also indicate that the Crown Office should be left as it is—independent?—I think the Crown Office should remain under the control of the Lord Advocate, and should not be in that consolidated arrangement.

56,607. The Teinds Office we need not say much about. I suppose you are aware that it is a somewhat intricate subject?—Yes, I am.

56,608. And the Teinds Office may stand in a special position, and we can leave it at that?—Yes.

56,609. Did I gather aright that you thought that the post of the Principal Clerk of the Bill Chamber might be abolished?—Yes, I think it might.

56,610. Are you aware that the Bill Chamber procedure is unfortunately of a very peculiar and technical character?—Yes.

56,611. Is it not, in your opinion, necessary that the chief of the Bill Chamber, whoever he is, should have real technical knowledge of his difficult subject?—I do not wish for a moment to suggest anything that you do not agree with; you know much more than I do about this, but I should have thought that the head man in the Clerk of the Bills Office would be quite capable of carrying on his work, as far as I have been given to understand.

56,612. Is it your view that the Principal Clerk of Session would really take the place, as one of his duties, of the Principal Bill Chamber Clerk?—No; I mean that I do not think there is any need to pay a man the salary that you pay to the Principal Clerk of the Bills. I think his work could be done by a man in the position of a Depute Clerk of Session.

56,613. In other words, if money can be advantageously saved on that office, you would save it?—Yes. All I want to do is to suggest a possible economy. I do not wish for a moment to suggest an economy which would be at the cost of efficiency.

56,614. I am sure you do not. As regards patronage by the Lord Advocate, some suggestion, I believe, has been made that his lordship might be assisted by an advisory committee of some sort. Have you any view upon that?—That was, I think, the view put forward in England by Lord Loreburn.

56,615. (*Chairman.*) By Sir Kenneth Muir Mackenzie and Lord Loreburn?—England is so very much bigger, and the number of appointments in Scotland are so very few that I really do not think a committee would be much use.

56,616. (*Mr. Boutwood.*) I have only one question to ask, and I do not know that it relates very much to your own department. There seems to be a high officer of the Crown who has received in a diluted form a certain administrative tradition from the days of Henry, Lord Dundas—I mean the Lord Advocate. Where does he live and work? Is it in London or in Edinburgh?—In

both, I suppose. While the House of Commons is sitting, of course, the Lord Advocate is here.

56,617. But when he is in Edinburgh, is he in what you would call intimate touch with the staff of the Scottish establishments?—Yes, the Lord Advocate has regular chambers at the Law Courts in Edinburgh where he sits. If he is engaged in a case, he is down at the Court; if he is not engaged in a case, he sits up in his room, and he is there seeing people.

56,618. Apparently the Lord Advocate virtually has the patronage of Scotland in his pocket. Does he, when in Edinburgh or London, really know the Scottish Service and the men who constitute it? That is the point I want to find out?—I do not think I could tell you.

56,619. (*Mr. Graham Wallas.*) You said you are banker for the Local Government Board Prisons Department and so on. Does that mean that you are in the position of the Paymaster in the English offices?—Yes, really.

56,620. That is to say, you have to advise the Treasury as to the investment of funds standing in suitors' names, and so on?—No. We do not have invested funds in Scotland. For the convenience of the country we are as overdrawn in Scotland as we can be so as to keep the money in London. The Court of Session funds are dealt with by the Accountant of Court.

56,621. Will you explain your connection with the Scottish Office? Is your work closely connected with the Scottish Office?—I suppose generally I have to work against the Scottish Office. The Scottish Office are always asking for certain people to have increases of salary, and my duty is to advise the Treasury as to whether I think they ought or ought not to have it.

56,622. That is to say, you are the general accounting officer, accounting to the Comptroller and Auditor-General, and advising the Treasury?—Yes.

56,623. Therefore you have to be always on the look-out for opportunities of economy, I suppose? You have to be financial critic throughout the whole Scottish Service?—Yes; I have nothing to do with the Post Office or the Customs.

56,624. There is a small point which came up which I should like to ask you about from that point of view. We were told that the macers in court charge a fee of 1s. for every witness who appears. Are you familiar with that?—I believe that to be the case, yes.

56,625. Is that fee paid into the Consolidated Fund and then paid out to them, or does it simply go into their pockets?—I think the macers pool all the fees that they extract during the year, and divide them amongst the lot at the end.

56,626. But, as a rule, in the Government Service, if a man receives a fee he accounts for that fee; the fee is paid into some responsible fund, and out of that fund paid either to him or to somebody else. Is not that so?—Certainly.

56,627. What happens to these shillings?—These shillings are pooled by the macers and divided amongst them, as I say; but I am not certain that it is a fee which, in any event, should be accounted for. I dare say if the public were to challenge the practice, and to say, "We will not pay this macer this shilling," the macer could not exact it.

56,628. You think it is a customary fee like a fee to a porter at a railway station?—Yes, I should say so; but I should like to verify that.*

56,629. Where there is a fee which, in fact, to the knowledge of a judge is exacted from all witnesses and put into the pockets of macers, is not the question whether it is a legal fee or not a question which should be somewhat rigorously inquired into?—It is a very small thing, and I suppose nobody has ever thought much about it. After all, nobody is likely to be a witness in a court more than once in his life, and I suppose he does not grudge the shilling.

56,630-1. Does the witness pay it out of his own pocket?—No. The agent pays it, and recovers it from the unsuccessful litigant as part of the expenses. It is a question I know very little about; but I know the macers do get certain fees and pool them, and divide them at the end of the year.

* These fees are exacted by "use and wont."—K.M.

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56,632. In the Report of the Committee of 1911 it was proposed that the extractors' clerks and engrossing clerks should be paid fixed salaries. The Committee reported that such an arrangement would facilitate the carrying out of minor reforms, such as the shortening of extracts by the omission of the long warrant and the substitution of a short form, as proposed by the Principal Extractor?—Those men in the Extractors Office—there are three of them—have now been put upon salary.

56,633. But the plain meaning of that is, that certain unnecessary things were written out in order to provide salaries for the persons who wrote them?—I do not know that they were unnecessary. That depends very much upon the law. No doubt a lot of these things are extraordinarily long, and this committee of Sir George Paul's is now sitting to ascertain whether these titles cannot be shortened.

56,634. The meaning of that passage, "Such an arrangement would facilitate the carrying out of this reform," means that that reform was rendered more difficult to carry out because men earned money by copying the longer extracts?—Yes, but besides that I think it was necessary.

56,635. Have you any knowledge, officially, whether or not anyone appointed to a post is appointed with an age limit of 70, or any other limit?—The ordinary Civil servant has to go at 65.

56,636. Yes; but we have been informed that there has been lately introduced into warrants appointing to Crown posts a limit, in many cases, of 70 years of age. Has that come before you at all?—In this way: That before I pay anybody any salary I see his commission, and therefore should see his age, probably, in the commission.

56,637. On December 16th last, Mr. John Smart was appointed, at the age of 67, to a pensionable post of Depute Clerk of Session. Do you know whether he was appointed with an age limit of 70 or not?—I am not quite positive if he had an age limit, but, I think, as a matter of fact, all Depute Clerks of Session are now bound to go at 70.

56,638. Then, if he was appointed at the age of 67, which would probably be, say, 67½, and you had to subtract from his period of efficiency the period during which he was learning his most difficult and responsible duties, which are paid for at 500*l.* a year, his total period of efficient service for which he would be afterwards pensioned would be very short?—Yes, but that man will not be pensionable because he will not have served long enough to be entitled to anything. I am not saying that the appointment of a man at the age of 67 is defensible in my humble opinion.

56,639. One is gradually learning—in my case rather to my surprise—that right through the Scottish Judicial Service a system of patronage prevails?—I do not know that you can go quite so far as that.

56,640. From the top down to the macers?—There is a good deal of patronage, of course. It is not all patronage, I think.

56,641. And it is suggested by witnesses that patronage is interpreted to mean either the satisfaction of personal claims or the satisfaction of political claims—that political claims are considered, on the whole, more important, but they may stand aside if a man has a personal claim upon the gentleman exercising patronage?—Yes, I dare say that is true. I do not exercise patronage so I am unable to say.

56,642. One can understand a patronage service in which patronage was confined to the original appointment, but it seems also to be assumed that, in this case, the whole system of promotion is influenced in the same way. You tell us, for instance, in your précis, with regard to promotion: "I should say not much weight is given to seniority or merit." If neither seniority nor merit count, either personal or political favour is the only alternative?—That is so.

56,643. You told us that this system of patronage was in your judgment unavoidable under party government?—I, perhaps, ought to qualify that by saying, under present circumstances under party government, as long as you have not got a consolidated service, or a

service to which admission is by competition or examination.

56,644. Have you ever happened to have stumbled upon the history of the first introduction of the Civil Service Commission in England, in consequence of Sir Charles Trevelyan's Report in 1854?—I remember reading it once.

56,645. Do you remember that the Government then published a large number of letters to him from important official heads, and so on, of whom a majority declared that in their judgment, the then existing system of patronage was the necessary result of party government in a constitutional country?—Yes.

56,646. But, in fact, it was to a large extent abolished in England in the mass of the Service?—In the mass of the Civil Service, yes.

56,647. And if a corresponding change were introduced into the Scottish Judicial Service, it would be necessary in Scotland, as in England, to break through a long-established habit of thought and feeling?—Yes, it would.

56,648. You told us that you did not think a committee in Scotland, on which the Civil Service Commission might be represented, would be much use to advise the Lord Advocate; but might not it be useful in breaking through that long-established habit of thought and feeling?—I do not think so; because if you appoint the committee you will only appoint the committee after you have agreed to make a "Service" of it.

56,649. Yes; but there may be a number of posts which are not easily filled by the ordinary competitive examination, and which require, for instance, legal experience. Take the Sheriff Clerk. The Sheriff Clerk is now appointed by the Lord Advocate?—Yes.

56,650. And, I suppose, openly for political or personal reasons?—Probably.

56,651. You cannot appoint a Sheriff Clerk by the Civil Service examination?—No.

56,652. Now, if you wanted to break through the long-established habit by which these important posts—very important for poor people—are filled by personal or political patronage, the aid of a committee on which the Civil Service Commission was represented might be useful, might it not?—I do not think a representative of the Civil Service Commission would be much use on any committee which was to suggest the appointment of Sheriff Clerks, because nobody in the Civil Service Commission can know anything about Scottish solicitors, from whom the Sheriff Clerks are drawn.

56,653. But it is all important that he should have the will to make an appointment, uninfluenced by these traditional motives—more important than that he should have detailed knowledge. You want somebody there with the will?—I do not quite see what your point is over this. If you had this committee that was suggested—a committee by way of selecting people for no particular reason, but because they thought they were good men—I do not see how you are going to appoint any committee who knows every solicitor in every town in Scotland, and can judge of their merits for appointment to a Sheriff Clerkship when it becomes open.

56,654. Are you familiar with the corresponding problem in America?—No; I know nothing about America.

56,655. I understand, having been for some time in America and in close contact with this problem there, that there are a large number of appointments in New York which are connected with politics in precisely the same sense as in Scotland; that is to say, they are filled for political reasons. The American way of curing this is to make them Civil Service appointments—not in the sense that they are necessarily appointed by examination, but that a man, who is chosen in order to carry out the policy of indifference to political motives, is made responsible for them. Would not that rather be the effect of bringing in the Civil Service Commission, or one of its representatives, into this corresponding precisely identical system in Scotland?—Personally I do not think it would work.

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56,656. In the English Courts it has been suggested that there is so much purely routine work that a separation ought to be made between those recruited normally for the routine work of the Courts, and those recruited with the prospect of going up to more serious work. Do you think, in the similar problem in Scotland, it would be possible to make that distinction?—I should hardly think it was worth it, because you are dealing as a whole with such a small staff. You are talking of the Court of Session at the present time, and I think there are 51 people on the Estimates. I do not think you can differentiate much in a staff of 51 people.

56,657. The Principal Clerk of Session, Mr. Adam, told us yesterday that in effect there was no routine work, because the routine work was not done; that he had nobody to store or file his papers, or anything of that kind, and that the papers remained unstored and unfiled. Have you ever had that point presented to you, that the work might be more efficiently done and in a more orderly manner if there was a certain measure of routine in filing and arranging documents, for instance?—I should have thought the documents were, as a matter of fact, put away, because each Court has its own room at the Register House, and each Clerk of Court has to keep the papers.

56,658. I mean the papers he has to deal with. He said he had no one to file his documents, and he had to behave in that way as a private person would. Do you think there might be, for instance, a general register of documents in the Court with the same system of filing as there is in the English legal departments?—I must plead ignorance about the English departments, but I should not have thought that the Principal Clerk of Session had a very great deal to write or to keep. He has his own room up at the Parliament House where he can put all his papers away, if he likes, into cupboards. His correspondence certainly cannot be great.

56,659. You told us that so far not much effect had been given to the recommendations of the Committee of 1911, which dealt, in the main, with the same problems that we are dealing with, and proposed important reforms. Can you indicate to us what were the hindrances which prevented those recommendations being carried out?—I think legislation was required for a good many of the recommendations of the Committee, and those things that have been done have been done principally on the initiative of various heads of departments. For example, one of the things that that Committee recommended was that the Clerks of Justiciary should get higher pay. On the initiative of Mr. Crole, Principal Clerk of Justiciary, who attacked the Treasury time after time, they have had increases given to them. Little things like that, coinciding with the recommendations of that Committee, have been done; but other things would, of course, require legislation, and they have not been done, owing, I suppose, to there being no time to introduce legislation.

56,660. Would you say that it was not clearly anybody's business—neither quite the Treasury's business, nor quite the business of the Secretary for Scotland, nor quite the Lord Advocate's business, apparently—to carry out the scheme, and everybody has left it alone?—No; I certainly think it is the duty of the Scottish Office to do it, if anybody were to do it. You can scarcely expect the Treasury itself to take up the matter of spending more money.

56,661. (Chairman.) The Committee was appointed by the Secretary for Scotland?—Yes, the Committee was appointed by the Secretary for Scotland, and the Secretary for Scotland should do something for its recommendations or not, as he chooses.

56,662. (Mrs. Deane Streatfeild.) I want to go back to the question of the engrossing staffs in some of the offices. Supposing it were found possible to substitute typing done by women for engrossing in some cases, I gather that there would be a difficulty owing to the uneven pressure of work?—Yes.

56,663. Is there any other work of a clerical nature in these offices which could be done by an efficient staff of competent typist clerks?—No. There is only the ordinary official correspondence, for which there are regular typists in the office.

56,664. I do not mean typing, but clerical work—indexing, filing, registering. You said you thought that a male staff could not very satisfactorily undertake typing because such a staff would have very little hope of promotion. I am talking of typing paid by salary and pensionable. You said that it would be hardly satisfactory and you turned more hopefully to a female staff for that work. We had some evidence here from women employed in English offices in typing. There was just that same objection arising among the female staffs that there was little hope of outlet or promotion to the top, and it leads to an unsatisfactory condition of things and to some discontent. In our previous recommendations we suggested that there should be promotion to clerical work, apart from typing, for women who proved themselves efficient. Is there no clerical work of that sort in some of the offices you know of in Scotland which could be done by women?—I think it is rather difficult for me to answer about the interior economy of other people's departments. I can tell you that throughout most of the winter I have in my own office been employing girls to do the work of second division men as far as I could.

56,665. Did you find them do it efficiently?—Yes.

56,666. Have you had many, or only just a few?—At different times I have had a couple and sometimes three in addition to my regular typing girls, when the pressure came.

56,667. I really wanted to discuss it in the light of the difficulty that was said to arise owing to the pressure of work in summer and there being little work in winter?—That pressure must necessarily occur, whatever system you adopt. The rush of work must come into the Sasines Office after the 15th May, and then after January there must be a slack time. Whether those offices could find other clerical employment for girls at that period of the year I should doubt, but I am not in a position to tell you because they are not my offices and I really do not know.

56,668. I thought, perhaps, having thought about the question of employing typists to do engrossing, you might also have thought of some other way of employing typists during the slack season?—I did, but it was not quite to do with that question.

56,669. (Chairman.) The main part of the clerical work of these offices relates to the presentation of documents for registration and, therefore, that work would be heavy at the same time that the engrossing work was heavy?—That would be so.

56,670. So that the problem would not be entirely met, even if the typists could do clerical work as well?—That is so.

56,671. (Mrs. Deane Streatfeild.) I was thinking of a staff of competent educated women who could do clerical work?—You mean women who would be the equivalent to our second division men?

56,672. Yes?—I think you would rather waste a woman who was the equivalent of a second division man if you put her only as an engrosser in the Sasines Office.

56,673. If she only did that work, but beginning with typing, after examination, and rising according to her efficiency and capacity into something better, is what I thought might be possible?—Are you contemplating a mixed male and female staff in these offices?

56,674. No. I was thinking of a staff of women doing a certain piece of work in an office, coming in as typists and going on to a certain piece of clerical work or registration work, such as one has in some of our English offices?—Of course, there is no earthly reason why an educated woman should not be able to do this work, but she never would learn the initial part of the work while she was doing the typing, because the typing is almost mechanical and would teach her very little. It is not like the case of a man who comes into a department where, perhaps, there are three or four men senior to him and he gradually picks up from them such legal knowledge as is required in dealing with these deeds.

56,675. What sort of typing is it that they do? Is it purely simple typing from shorthand dictation?—No; in the Sasines Office it is absolutely the copying of deeds. The deeds put in are all deeds relating to the buying or selling of houses or land, or the burdens put

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upon them by mortgage, or marriage settlement, or anything of that sort.

56,676. Is the handwriting of those deeds difficult to decipher, and are the terms technical?—Most of the legal offices, I think, now are going in for typewriting, and most of the deeds sent in now are typewritten. I think most of the solicitors in Edinburgh and Glasgow type all their deeds.

56,677. We had some evidence from the English offices as to the sort of typing that is done, and it appeared to vary a great deal in quality; some of it was purely mechanical, but some of it was quite different, and a woman who was capable of doing it would also be making a précis of the paper she was typing and typing that précis. She would have to know French or German and technical terms of various kinds, and would be an educated clerk. That sort of work exists, does it not, in the Scottish offices?—We are dealing with the Register House entirely.

56,678. I was dealing with the offices you have been speaking of to-day, in which engrossing work, clerical work, and registration work is done?—That is the Register House. I do not suppose such a thing as a French or German deed has ever been handed in at our Register House.

56,679. No, I was only using that as an example, which shows that the work the typist does is not purely mechanical. The typewriter is used just as she would use her pen?—Yes.

56,680. (*Chairman.*) The engrossing in the Sasines Office consists entirely of the copying of the complete legal documents or deeds?—That is all.

56,681. No abstracting or drafting?—No abstracting; it is purely mechanical copying. I think I see your point—that one should be able to have these rather higher educated women, employ them on typing during the summer months when there is a press of deeds that have to be copied, and then find work for them in the office after that period.

56,682. (*Mrs. Deane Streetfield.*) For some of them you might find work of another kind that had to be done?—Speaking without absolute knowledge, I do not think you could employ those women in the remainder of the year except in an office with men. The Sasines Office is divided into different districts of Scotland, each district has so many men, a head and a subordinate, and so many clerks belonging to it, for the purpose of registering these deeds; and, I think, for any higher work of that kind a woman would have to go into an office like that.

56,683. (*Miss Haldane.*) I suppose you would anticipate that the women typists would come in by competitive examination?—I think at present the pensionable typists always come in by nomination, and they qualify.

56,684. Yes, that is so at present; but in reading your précis where you say, "The subordinate clerks are non-pensionable. Probably lady typists could be introduced who could be pensionable," I thought you meant by that that the typists would do subordinate clerical work?—I was thinking there, to tell the truth, more of the men who would be engrossing in the Extractors' Office, who have very recently been put upon salary. The work that they do really is only writing out things which are told to them, and a shorthand typist could take it down from the extractor or assistant extractors and type it off very much more economically and, probably, more accurately.

56,685. We have been told that one objection to bringing in a female clerical staff is that certain legal qualifications are required; but, according to what you have said, you do not think these qualifications are really necessary, and that a person might come in without them?—I think in a good many places a person might come in without a legal qualification; but there is this difficulty to remember in our Scottish offices, that the personnel of the whole thing is so small that you are faced with the extreme difficulty always of having girls and men in the one room.

56,686. But that is a difficulty which can easily be got over with a little organisation. We have had that difficulty brought forward in evidence right through, very

frequently; but it is, I suppose, really a matter of arrangement, and usually, if it is desired, it can be arranged for?—I have seen a certain amount of it. Girls are getting so much now into private legal offices in Edinburgh, and I must say I do not think it very satisfactory.

56,687. Of course, just now particularly, there is a great extension of that employment of women?—It is even more now, but before the war I remember it was the case in several offices that I have been into, where I do not think it is quite a satisfactory arrangement.

56,688. We have not had any evidence about private offices yet, but have heard a great deal said in favour of it privately?—I can only speak from what I have seen.

56,689. With regard to the macers, and so on, they are not all necessarily ex-soldiers or sailors?—Not necessarily. One of the macers is appointed by Lord Bute.

56,690. But the other messengers, and so on, are, I suppose, usually ex-soldiers or sailors?—Yes.

56,691. Right through the offices?—All the permanent messengers and people like that about the courts.

56,692. (*Sir John Kempe.*) You are in favour of employing clerks of the type of the second division for the Court of Session?—Yes.

56,693. Do you include the Register House departments?—I think we must deal with them rather differently. The Court of Session is one thing and the Register House is another thing.

56,694. You do not think second division clerks good enough for the Register House departments. The salaries in the Register House are higher than the second division salaries?—Yes; but that is because of the present system. They have to have so much legal qualification before they come in, and they are called first and second class clerks instead of the second division.

56,695. Are you in favour of second division clerks for the Register House?—Yes; I favour the open competitive examination for all.

56,696. That is to say, you think a lower salary would be good enough for the clerical part of this establishment?—Initially, certainly. The clerk rises, of course.

56,697. In Scotland are the second division selected from Scotland?—No, not necessarily. The Civil Service Commissioners appoint a man who passes in the examination to wherever they like. If he is a Scotchman he probably applies to get a transfer to a Scottish office, if he can.

56,698. You had experience in the Local Government Board, where they do employ second division clerks, and you can compare those with the clerks employed in the legal departments. Do you see a difference between the two classes in the type of men?—I think myself that the second division clerk of to-day is as good a young man as you want to get. He passes a very high competitive examination, and, personally, I have never had the ill-luck to have a bad one yet, and I have passed a good many through my office now.

56,699. You have them in your own office?—Yes.

56,700. You have had no experience of the actual work in legal offices?—No.

56,701. You have not been able directly to see how the clerks work in those offices?—No.

56,702. Still you are satisfied that the second division clerks would do?—I have often been down to these offices in the Register House and looked into the offices and seen what is going on, just to familiarise myself with whether they are working or whether they are not.

56,703. Do you get men from the Universities in the second division in Scotland?—The university man is a Class I. man.

56,704. But I thought, perhaps, in Scotland you got a higher class man competing in the second division. Is it all one competition; and is there no separate Scottish competition?—No, the second division is for the whole kingdom.

56,705. (*Mr. Matheson.*) I gather that you think that the whole staff might be supplied by open competition except the Principal Clerk?—Yes, I think it is an

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advantage to have the head of your department brought from somewhere else.

56,706. As regards the rest of the staff, they could acquire what legal knowledge was required in the office?—I think so. It is only my personal opinion. I do not want to press it at all.

56,707. I only wanted to get clear that that was your opinion?—That is my personal opinion.

56,708. (*Chairman.*) When speaking of the consolidation of the offices of the Court of Session, we did not mention the two departments of the Auditor and Accountant of Court. How would you deal with those?—The Accountant of Court takes in all the Bankruptcy money and things of that sort, and the money he does not pay out he hands over to me at the end of seven years. He has a staff of so many permanent men, and has an allowance of, I think, 1,100*l.* a year for clerical assistance.

56,709. To whom is he responsible at present?—He is responsible, I suppose, to the Court for the keeping of the money, and then he is responsible to me for handing it over at the end of seven years.

56,710. For the discipline of that office is he responsible to anybody?—I should think he is responsible to himself and not responsible to anybody, unless to the Court of Session. He is an officer of the Court, of course.

56,711. (*Mr. Graham Wallas.*) Is it understood that his office and that of his staff is, in the American sense, "in politics," and is part of a patronage system, or is there any precaution against that?—His permanent staff are Civil servants, so it cannot be patronage. His other clerical staff, no doubt, he appoints himself, and he himself is probably appointed by the Lord Advocate.

56,712. (*Chairman.*) Does he hold a Crown appointment?—I think so. I rather think that on the occurrence of a vacancy the salary of the Accountant of Court might, perhaps, be reduced a little.

56,713. But would you leave him as at present responsible only to the Court and not in any way under the Principal Clerk of Session?—Yes, I think he must be independent. I do not think you can mix him up. With regard to the consolidated service, I do not think either the Accountant of Court or the Auditor of Court could go under the Principal Clerk of Session; they would have to be separate. The Auditor of Court is a taxing officer.

56,714. The Auditor of Court being a solicitor in practice on his own account, there might be difficulty in placing him under the Principal Clerk of Session?—The Auditor has to do all the work sent him by the Court, but he also has a large private business of his own, which, of course, means that when he gets the appointment of Auditor of Court necessarily a lot of people take their work to him. It gives him a chance of getting more work.

56,715. Does he do any work as a law agent apart from the taxing work that he does?—I should think not. I should think he is pretty fully occupied. He has a very big private business.

56,716. The Auditor of the Court does business of various kinds, part of it sent to him by the Court and part of it coming to him privately?—Yes.

56,717. Is there also business which comes to him from Government offices, but which is not sent to him by the Court?—Yes.

56,718. In the case of that business is he entitled to charge private fees for it?—Yes, he is entitled to charge fees.

56,719. He is a salaried officer of the Government?—He is.

56,720. Would not it be fitting that he should perform all the work sent to him officially, whether from the Court or from public departments, without charging separate fees for it?—I think so, even if his salary had to be raised.

Mr. GERALD LAKE CROLE, K.C. (Principal Clerk of Justiciary), called and examined.

56,721. (*Chairman.*) You are the Principal Clerk of Justiciary?—Yes.

56,722. And you are a King's Counsel?—Yes.

56,723. How long have you held the office of Principal Clerk of Justiciary?—23 years.

56,724. You gave evidence before the Committee over which Lord Salvesen presided in 1910?—I did.

56,725. The Commission have before them the Report and proceedings of that Committee, and they find there a very complete and detailed account of the Court and its procedure, and the functions of your office in connection with the Court?—Yes; my office as Principal Clerk was not within the purview of that Committee, I may say, but my evidence was directed towards the duty of my two subordinates.

56,726. Having that evidence before them it will be unnecessary for the Commission now to go in detail into the matters with which you dealt there regarding the procedure of the Court, and so forth; but it may be convenient to recall the nature of the sittings of the Court of Justiciary at which you and your officers have to assist. The Court sits sometimes in Edinburgh, and also holds circuit Courts in other parts of Scotland?—It does.

56,727. How often does it sit in Edinburgh?—It sits when required as a purely criminal Court. The sittings are fixed under requisition by the Lord Advocate. The Lord Advocate puts in a requisition which is lodged in my office—which is just a letter asking the Court to fix a day for the trial of criminal causes—and the Court either fixes the day asked or fixes a day which is convenient for itself.

56,728. In practice, can you say what length of time the sittings in Edinburgh occupy in a year?—It varies very much indeed. I should explain that Edinburgh is the centre for the trial of all criminal or serious criminal cases in the three Lothians, Peebles, and the Orkneys and Shetlands, but it has a universal jurisdiction over the whole of Scotland and, in practice, the serious cases, likely to last two or three days, are tried in Edinburgh; so that when there is a big case in one year the lengths

of the sittings vary very much indeed. In other years, when there is no big case, so many days are not occupied. Prisoners who plead guilty at various towns in Scotland are sometimes remitted, and their cases are all taken at the High Court in Edinburgh, and that occasions sittings of, I would not like to say off-hand, how many days. Then, as you are aware, the Court sits as a Court of Appeal from the Sheriffs, the Justices of Peace, and the Police Courts. I should say that the sittings in Edinburgh would vary from 30 to 65 days in the year.

56,729. Do the sittings on circuit occupy a longer or a shorter time than that?—There are six circuits in Glasgow, and I take them on an average of two days. There are two courts in Glasgow, so that would be 24 days. I should think it would be 50 days on circuit, but I would not like to say that is accurate.

56,730. It is a rough estimate?—Yes, it is a rough estimate.

56,731. What is the staff of your office?—I have two assistant clerks. They do the circuit work, and, when they are away on circuit, the Treasury supplies me with money to have an extra clerk. Over and above that I have a man in training. I have 50*l.* a year granted by the Treasury to train a man who might take the circuit work in case of emergency if one of the clerks was ill.

56,732. The Committee of 1911 made certain recommendations regarding the salaries of your staff?—Yes.

56,733. Have those been carried into effect?—Yes, they have been carried into effect.

56,734. Is your own appointment a Crown appointment?—Yes.

56,735. Made on the recommendation of the Lord Advocate?—Yes, or the Secretary for Scotland.

56,736. How are your staff appointed?—They have Civil Service certificates. They are nominated by me approved of by the Lord Advocate, examined by the Civil Service Commissioners, and, if the nominee is

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found to be qualified, he receives a Civil Service certificate.

56,737. What is the nature of the examination?—He is examined in general knowledge and in criminal law and practice, the last examination being of a severe character.

56,738. The examination in criminal law and practice really tests his knowledge in those matters?—Yes, I think it is a very testing examination, so far as I have seen it.

56,739. (*Mr. Boutwood.*) When you say "assistant clerk," you do not mean anything like the assistant clerk that we have in the English Civil Service?—No.

56,740. (*Chairman.*) You also have three macers?—Yes.

56,741. By whom are they appointed?—By the Crown. Also the Royal Trumpeters who are attached to the court.

56,742. Are they appointed by the Crown?—They are appointed by the Crown.

56,743. Will you describe briefly your own duties and the duties of your staff. In the first place you have certain duties involving actual attendance in court. What are they?—I attend at the High Court in Edinburgh. The duties of the principal clerk of the court in Edinburgh and on circuit are to call the jury, swear the jury, read the indictments—

56,744. You are not responsible for drawing the indictments?—No. The Lord Advocate is responsible for drawing the indictments. Then we minute the procedure, the sederunt of the Court, and the proceedings of the first diet—there are two diets in our practice. The prisoner is first brought up before the Sheriff, when he is asked to plead. If he pleads not guilty, he is remitted to the High Court for trial; if he pleads guilty, he is remitted to the High Court for sentence. The trial proceeds, and the clerk minutes what has taken place in the court below, and then he notes the names of the jurymen, the names of all the witnesses, and also any incidental motions such as may be made by counsel for the prisoner or the Crown. Then he minutes the verdict of the jury, and he writes and signs the sentence of the judge, excepting in capital cases, where he writes and minutes the capital sentences and the judge signs them.

56,745. He is responsible, in fact, for the proper record of the whole of the proceedings of the Court, including the sentences?—Yes.

56,746. Do your assistant clerks perform similar duties with respect to the Circuit Courts?—Yes; they perform precisely similar duties. In the High Court I should say the cases are usually heavier. As I said, the serious cases go there, and that means that the productions which are produced per list with the indictments are very much more numerous, sometimes going into hundreds, and the practice of the High Court is that the principal clerk is in charge of those productions, and sees that they are handed to the witnesses at the proper time and with as little delay as possible. At the Circuit Court it is impossible for the circuit clerk to attend to the productions if they are at all numerous. I have the assistance of the assistant clerks at the High Court, but the circuit clerk has no such assistance, and the practice there is for the Procurator Fiscal's man to assist him with the productions or he would never be able to perform his duties. The practice of the High Court sitting in Edinburgh is that these productions, for which I may say I am entirely responsible, do not leave my hands except for the hands of the witnesses.

56,747. (*Lord Dundas.*) When you say the High Court you mean the Justiciary Court in Edinburgh?—Yes.

56,748. (*Chairman.*) Do the operations of recording and drafting sentences which are performed by you and your assistants involve much technical and legal knowledge?—Yes, the judge is primarily responsible for the sentence, but of course the sentences vary very much, and the judge very often asks the clerk what is the appropriate sentence in a particular case, and the clerk should be able to give the judge such assistance as he may require.

56,749. The clerk naturally has great knowledge of the precedents in such matters?—Yes. I have made out for

the last 40 years a list of precedents for the assistance of the judge, so that if a case comes up I am able to put into his hands a list of previous sentences in similar cases—probably some of his own sentences—for the purpose of keeping the sentences as uniform as possible.

56,750. Besides the work in Court you have office work?—Yes.

56,751. What is the nature of that work?—First, preparation for the trials. As I have explained, for the sittings in Edinburgh, the requisition comes to me and then I instruct a Sheriff Clerk to prepare a list of jurors, which is sent to me; whereupon I give out warrants for the Crown, citing witnesses and prisoners to the court; these are in preparation for the trials. The details are pretty numerous, I may say, and I have detailed them all pretty fully in my précis of evidence, and I would like to refer to that.

56,752. Are the office duties which are performed by you and your staff stated in detail in your evidence before Lord Salvesen's Committee in 1910?—They are.

56,753. The Commission have that evidence before them?—I should say that the records of the Justiciary Court go back to the year 1493. They are of great literary interest, and there are a great many calls from the outside public to see these records.

56,754. Are those records in your charge?—They are.

56,755. All the records of the Court of Session are under the custody of the Deputy Clerk Register?—They are.

56,756. What is the reason for a different treatment of the records of the Court of Justiciary?—The Deputy Clerk Register is an official of the Court of Session, and he is entrusted by that Court with the custody of its records. On the other hand, the Clerk of Justiciary is an official of the High Court of Justiciary and has been from time immemorial appointed by that Court custodian of its records. These records are in continual use in our office, but not the very ancient ones. A prisoner may have oftentimes been convicted, and the Crown applies to me for extracts of these convictions, so that I must have the records at hand to find out when the man was convicted and give an extract of them.

56,757. That would not apply to records say, more than 50 years old?—No, but the ancient records have always been kept by the Clerk of Justiciary. His office used to be at the Register House, where the Deputy Clerk Register is, but there is a safe in his present office consisting of three rooms which used to be the Union Bank safe, and the records are probably as safe there as they could be anywhere. The ancient records are required for preparing reports to the Court on points of law and practice. (*See my evidence to Committee of 1911, Appendix to Report, page 40.*)

56,758. Are they accessible to the public?—Yes, on paying certain dues which the Exchequer demands. The public cannot rummage through the safe, of course. If they ask for a particular record it is brought up from the safe, and the clerk shows it. More often, seeing that it is written in very archaic writing, and most of the public are quite unfamiliar with the writing, they ask the clerk to give a translation from it, and that is one reason why the qualifications of an assistant clerk are of a different character from those of an ordinary clerk. Some of these documents are written in Latin, and the writing is very difficult to read, being the old archaic Scotch writing, and it takes a very considerable time to get up to the writing. Each clerk had his own contractions, and, after you master those of one who had been there perhaps for ten years, you land on another totally different set of contractions, and as the writing is very minute it is very difficult to read, and it is only constant practice that gets a man up to it.

56,759. Do you consider that the present system of appointment works satisfactorily?—I do.

56,760. You do not suggest any change in it?—I do not. As regards my own office, the Crown appoints, as I have said, and as regards the two assistant clerks, I think the principal clerk having the nomination would always take care that the right men should be

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nominated, and as he has a clerk in training for the office, he will nominate the clerk whom he has carefully trained for the position.

56,761. That system of a clerk in training has the double advantage of giving you a substitute in case of illness or emergency, and also a man who, when appointed, will be capable at once of undertaking the work of the office?—Precisely.

56,762. The discipline of your small staff is entirely in your own hands, I suppose?—Yes.

56,763. Have you the power of dismissal?—I do not think I have the power of dismissal. I have the power of suspension.

56,764. With whom does the power of dismissal rest?—I think the power of dismissal would rest, after report by me, with the Lord Justice-General.

56,765. The occasion has never arisen for such a drastic procedure?—Never arisen in my time.

56,766. What are the ordinary office hours?—10 to 4 are the office hours; but the Court sits very much longer occasionally, and when the Court sits the clerks must be there at 9 o'clock to prepare for the Court meeting—that is, the High Court in Edinburgh. Of course, when they go on circuit the assistant clerks must be down at the court in good time to take over the work.

56,767. Does the work occupy the whole time of the clerks?—Yes.

56,768. And your own time?—It practically does. I am not supposed to give my whole time, I understand, but I have found that the work of the office, getting the first of my time, practically occupies my whole time, because it breaks up each day. I am there daily and I am at the call of the judges during the whole day. I think if the principal clerk does his work personally, as he now must do to do it efficiently, you may say that it practically takes his whole time.

56,769. Practically you have not any other legal work?—Not now, no.

56,770. The question has been raised of whether it is desirable to consolidate the various offices of the Court of Session, and, if that is done, whether the offices of the Court of Justiciary should be amalgamated with the offices of the Court of Session, or whether it is necessary to keep them separate, as they are at present. What is your opinion on that question?—I am of opinion that they should be kept separate. As you are aware, the jurisdiction of the two courts is quite distinct—the High Court of Justiciary having a criminal jurisdiction and the Court of Session having a civil jurisdiction. The only connection between the two courts is, that the judges are now the same; they used not to be; but, after 1887, they are now the same; but that really is the only connection. The jurisdiction is different and the work is totally different. The work of a depute and assistant clerk of Session differs entirely from the work they would have to be put to if they came into my department. As I have stated in my précis, it was once tried, and the 1870 Commission recommended that it should be tried. The Act of 1887 by Section 73 provided that the depute clerks of Session should take the circuit work along with the first assistant clerk of Justiciary. This was found to be an unsuitable arrangement, so far as the depute clerks of Session were concerned, and really I found that it was tending to such inefficiency that I reported the matter to the Court, and the result was that the Act of 1898 was passed, which abolished that system and put the circuit work on the two assistant clerks of Justiciary. I should think that it would not tend to efficiency if that system of amalgamation were adopted. It would be difficult to adopt as regards salaries; the Justiciary Office would only get a very junior man from the Court of Session to accept office as assistant clerk of Justiciary; he would come in there totally without any knowledge of anything but his own Court of Session work and an ordinary clerk's work, and he would have to take a Circuit Court, probably almost at once. I could not certify him as competent to do so, and it might end in a very serious state of matters owing to the mistakes he would make, and would be bound to make. I therefore think it would not be a good system. You might as well take a clerk

from the Register House, or the Exchequer Office, so far as knowledge of the work goes.

56,771. In fact, the work is so entirely different in kind, and so technical in its nature, that it requires a separate education to perform it?—Precisely.

56,772. (*Sir John Kempe.*) You say you have a clerk whom you train up to take the place of an assistant clerk. How is he trained? Does he attend the Court?—He attends the office in the first place, and he does a good deal of the drudgery of the office, which he must commence to do in order to get a foundation for his training. He then comes with me to the High Court of Justiciary sitting in Edinburgh; and after he has been doing that for a little time I send him with one of the circuit clerks to the circuit towns. In that way he gets accustomed to the work. I should say that it requires a man of some nerve to do the work, because I have attempted to train certain men who, on account of their disposition, were unable to continue. In the case of a capital sentence I have had the experience of a clerk totally breaking down when he was called upon to write the sentence, and who, therefore, was useless for my purpose.

56,773. Does it take the whole time of this man in training?—No, it does not.

56,774. He only comes now and then?—Yes.

56,775. And he only gets 50*l.* a year?—Yes.

56,776. I suppose that system would be only applicable to your particular office; the same kind of system could not be applied in other places for training up clerks. With regard to the difficulty of clerks learning their work, would it be possible to have men training, say, in the Register House?—It might be possible, but I do not think that for the nature of the work they get in the Register House it is necessary to train a man. He comes in there as a very junior man in the Register House and rises up. That is not the class of man I require. I require a trained man immediately to take on important work.

56,777. There is no inferior work; he has to learn the work and has to go straight into it?—Yes.

56,778. (*Mr. Matheson.*) Is this man you are training up someone out of a writer's office?—He is a solicitor. In fact, I may say that the man at present in training is the Lord Justice General's clerk and the Keeper of the Rolls of the Court of Session. He used to be in the Crown Office, and he came at an early stage, many years ago, when he was a young man, voluntarily to the office when there was no allowance, in order to be trained, and, of course, now he is quite a valuable man.

56,779. Has he the full qualifications of a solicitor?—Yes.

56,780. (*Mr. Graham Wallas.*) You have two macers at 175*l.* a year. One of them is apparently an ex-soldier. What was the other before he was appointed?—He was a clerk in the Register House.

56,781. Why did it pay him to take a post as macer?—He was a clerk in the Register House and then he was in the Lord Advocate's Department later as a messenger. He was a man of somewhat delicate health, and, as I understand, the constant sitting and writing in the Register House did not suit him—he was a copyist really—and he got the appointment of messenger in the Lord Advocate's Office, and from there he was appointed to be macer in the High Court.

56,782. Was he an engrosser originally or a clerk?—He was an engrosser, I think.

56,783. Macers receive a shilling from each witness, do not they?—No; that is all abolished.

56,784. Is it abolished throughout Scotland?—It is abolished in my department. There are no fees of any kind except those paid in Law Court Stamps, which are accounted to the Exchequer. In old times it was a different matter, and I had occasion, when the fees were being altered, to inquire into it. At that time the Lord Justice General was paid by fees which were collected from the prisoners in a tin pot which was handed round the dock by the macers.

56,785. Are you sure that these fees do not exist in any of the Scotch Courts?—It is the Supreme Criminal Court that I can speak for. I know the Bar officer in the Sheriff Court gets fees.

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56,786. Do your assistant clerks get any fees for translating Latin documents, and so on?—No; the fees are charged by them, but are accounted for to the Exchequer.

56,787. Accounted by stamps?—By stamps.

56,788. You told us that the nominee for the post of assistant clerk is required to pass an examination in general knowledge and in criminal law and procedure. Who sets the questions in that examination?—The Civil Service Commissioners.

56,789. It is done formally by the Civil Service Commissioners at Edinburgh?—No; I report to the Civil Service Commissioners in London that the Lord Advocate has approved of my nominee, and they appoint an examiner to examine him in Edinburgh, as a rule.

56,790. (*Lord Dundas.*) The Court of Justiciary in Scotland has, historically, all along been quite distinct from the Court of Session?—It has.

56,791. I think there are special Acts of the old Scots Parliament constituting and regulating the Court of Justiciary?—There are; especially the Act of Charles II., which your lordship will remember, which not only regulates its duties, but regulates the dress to be worn.

56,792. And the dress is substantially preserved now?—It is, and the Act is in full force.

56,793. You have said, I think, that the criminal procedure is totally different from the civil procedure in Scotland?—It is.

56,794. When the judges of the Civil Court resolve to make regulations, they pass Acts of Sederunt. When the criminal judges perform a like task, they make Acts of Adjournal?—They do.

56,795. The two separate sets of Acts are kept in different books and by different officials?—Yes; and the Acts of Adjournal are drafted by the principal clerk.

56,796. Down to 1887 all the civil judges were not members of the Criminal Court?—No.

56,797. Until that date, I think, the criminal judges were the Lord Justice General, the Lord Justice Clerk, and five other judges, who were called Commissioners of Justiciary?—That is so.

56,798. Since 1887 the whole of the 13 civil judges are also criminal judges, and act as such?—Yes.

56,799. Is it the case that when a judge is appointed to the Bench the degree of his experience in criminal matters varies considerably according to the nature of his practice at the Bar?—It is.

56,800. Some of the judges on appointment being much more familiar than others with criminal matters and criminal procedure?—Yes.

56,801. Does the existence of the present system since 1887 make it, in your opinion, all the more necessary that the clerks of Justiciary should be persons well furnished with knowledge and experience of the criminal procedure?—That is so.

56,802. Is it within your knowledge that the clerks do afford in practice valuable assistance to the judges in the performance of their duties?—I think so.

56,803. You have expressed the view, I understand, that it would not be desirable, if feasible, to make the Court of Justiciary staff part of one consolidated office including the Court of Session staff and others?—Yes.

56,804. You mentioned, I think, that something of the sort had been attempted and had failed?—Yes.

56,805. Is it the case that by the Criminal Law Procedure (Scotland) Act 1887, as amended by the Act of 1889, it was provided that the duties of circuit clerk should be performed by a first assistant clerk of Justiciary and a depute clerk of Session in rotation?—That is so.

56,806. Was that system given a trial in practice?—It was, down to the year 1898.

56,807. And was it found that so far as the depute clerks of Session were concerned it was quite unsatisfactory?—It was.

56,808. And it was therefore remedied?—It was. The Act was introduced by the Lord Advocate, Mr. Graham Murray, now Lord Dunedin.

56,809. Are the functions performed by the civil clerks in regard to the interlocutors of the court really

quite different from the functions of the criminal clerks in regard to their duties?—They are.

56,810. When a prisoner is convicted by a jury and sentenced by a judge, who is it that prepares the document recording that conviction and that sentence?—The principal clerk or the circuit clerk.

56,811. On circuit by the assistant clerk who is sitting at the table.

56,812. It is only in the case of a death sentence that the judge ever signs a paper on the matter at all?—That is so.

56,813. Then if either the principal clerk or his assistants were not thoroughly up to their business, it is pretty obvious, is it not, that there might be a very gross miscarriage of justice, through some mistake in the preparation of the document recording the sentence and conviction?—That is so.

56,814. I see that the Report of Lord Salvesen's Committee alludes to assistant clerks of Justiciary, and I notice it says that the duties of these officials are of a highly responsible nature, and they cannot be performed by any man who has not specially been trained to the work. Their office duties are of a very varied and responsible nature. Do you agree with that?—I do.

56,815. The Report goes on, after strongly recommending a rise of the existing salaries, to say that their duties—that is, the duties of the assistant clerks—“are more arduous than those of the depute and “assistant clerks of Session, and it is far more important that they should possess a thorough knowledge “of procedure.” And, again, after developing the subject, they say: “All this necessitates that the “assistant clerks of Justiciary should be experts in “criminal procedure.” Do you agree with those expressions of opinion?—I do agree.

56,816. Do you think that in practice the Principal Clerk of Session could possibly perform the duties of the Principal Clerk of Justiciary in addition to his own duties, even if he had criminal experience sufficient?—I should not think so. I think it would be impossible for him to give sufficient time to perform the duties efficiently. Of course, the duties might be performed in a way, but they certainly could not be performed efficiently according to my experience.

56,817. Even if the Principal Clerk of Session had somehow acquired the requisite knowledge of criminal procedure?—Yes.

56,818. And from the ordinary antecedents of a Principal Clerk of Session, is it to your mind conceivable that he should have obtained those requisites?—I should think not.

56,819. Do you find that practically the duties of your own office occupy what one may fairly call your whole time?—They do.

56,820. I see in your précis there is a passage which I should like to put to you. You say you are permitted by the Lord Justice General to say that, “in his opinion, “the business for which the Principal Clerk of Justiciary is responsible is conducted with perfect efficiency, “and that his lordship is unable to suggest any point “of possible improvement.” Is that correct?—That is correct; and it was given to me in writing, which I am quite willing to hand to the Commission.

Lord Dundas: I do not think that necessary.

56,821. (*Chairman.*) Does the ordinary Civil Service as regards the age of retirement apply to your assistant clerks?—Yes; and I would like to mention, if you would allow me, that I propose in my précis that these rules should be varied. According to the present rules they must be more than 25 years on appointment, and they must retire at 65. I venture to suggest that nominees should only be solicitors of five years' standing, whose age does not exceed 40, and that the maximum age for retirement should be 70. I suggest that for certain reasons. In the first place there is the difficulty of getting a suitable man. I have in my mind a trained man who may have been under training for 10 years, and because he is six months over 35 he would be out of it and would not be eligible for nomination. I think that would be a hardship. These clerks must enter the Service at a greater age than the ordinary Civil servant.

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Therefore, I think, the maximum time for retirement should be 70, in order that they may have served a sufficient time to get a decent pension. I understand that the rule in the Court of Session is 70, and I think it should be 70 in my office also.

56,822. Does your warrant of appointment fix any age for retirement?—No; my commission is a sign manual commission, and there is no age fixed. I hold office *ad vitam aut culpam*.

56,823. In the case of future appointments to your own office, do you think that the appropriate method would be to promote one of your assistants or to make an appointment from outside?—That is a question of the man who might be senior assistant clerk. There might be such a man who would be suitable to take the office, but you will keep in view that the men who have been appointed to this office hitherto have generally been advocates of a certain standing at the Bar, never less than 10 years; in fact, in old times, there was a judge of the Court of Session appointed to the office, showing that it was looked upon as an important office in those days. It has certain responsibilities which, I think, could be best filled by a member of the Bar, and I think it would be more agreeable to the Court if the principal clerk was a member of the Bar. There was one case in which promotion did take place—the case

of Mr. Neaves in 1857, the father of the late Lord Neaves, who was the depute clerk, and who was appointed to the office; but that is the only case I know of, and it was an exceptional case. I may say that my predecessor was 27 years at the Bar before he was appointed.

56,824. You mentioned that special knowledge of procedure is necessary for your assistants, and *a fortiori* for yourself. Would an advocate who had not had anything to do with the actual work of your office be familiar with those matters?—An advocate is more familiar with criminal matters than a member of the solicitor branch of the profession, because he has to go circuit according to the unwritten rules of the Faculty. When he first joins the Bar, for three years he is engaged in criminal work, and he gets a certain knowledge of the work from that. Then, afterwards, when he gets to a certain seniority, he is appointed by the Faculty, each advocate in turn, counsel for the poor in criminal causes, and there again he gets additional training. Of course, the more minute and technical parts of the work can only be learnt by practice and by study; but, undoubtedly, an advocate having been engaged in criminal trials, as he must be, has a good chance of learning the procedure of the High Court of Justiciary.

Mr. RALPH RICHARDSON, W.S. (Commissary Clerk of Edinburgh), called and examined.

56,825. (Chairman.) You are Commissary Clerk of Edinburgh?—Yes.

56,826. How long have you held that office?—32 years.

56,827. What was your experience before you were appointed commissary clerk?—I was Writer to the Signet for 14 years in active practice in Edinburgh.

56,828. Do you hold your appointment from the Crown?—Yes, under the Act of 4. George IV, chapter 97, Section 5—the Act of 1823.

56,829. Will you tell us what the work of the Commissary Office is?—The work of the Edinburgh Commissary Office, which dates from 1563, founded by Mary Stuart, consists of the granting of titles to movable estate of persons who have (1) died domiciled in the County of Edinburgh; or (2) without any fixed or known domicile except that the same was in Scotland; and (3) of persons who have died domiciled furth of Scotland with estate in Scotland; (4) the re-sealing of English and Irish grants of probate and letters of administration to make them effective to deal with estate in Scotland; and (5) the re-sealing of grants of probate and letters of administration under the Colonial Probates Act, 1892.

56,830. You have therefore documents coming to you from many different parts of the world?—Quite so. We are much in the position of the principal probate registries of London and Dublin. In fact the word "Commissary" is the Scotch term for the English "Probate Registry."

56,831. Is the procedure in dealing with wills which come to you similar to the English procedure?—No, it is not similar. I do not profess to know the English law, but I understand there is a Probate Court, and it comes before them to prove the will. We in our office simply find out the executors' names to the best of our ability, and the Sheriff gives authority for those executors to act.

56,832. Before giving that authority, have you to examine the validity of the will?—Yes, and finding out if the will distinctly states certain names. We then distinguish them as "executors." Of course, if there is any difficulty, it is always referred to the Sheriff of the county.

56,833. You have to see that the will is legally executed?—Of course.

56,834. What record is made of the will in your office or elsewhere?—We keep a copy of the will, which is afterwards officially as good as the original, but we give away the will; we do not keep it.

56,835. You return the original?—Quite so. The original can be registered in the Register House of

Scotland if they want it for preservation, but our copy is simply to enable people to get official copies if they want them.

56,836. Is the copy which you keep made by your own staff, or is a copy sent in with the will?—It is made by our own staff. It is all typed now.

56,837. Are the copies bound in volumes?—Yes.

56,838. And preserved in your office?—Quite so, and can be seen by any member of the public on payment of one shilling or so.

56,839. Can you tell me what the practice is in the case of wills presented in the Sheriff Courts in other parts of Scotland?—No.

56,840. Are official copies of the wills retained by the Sheriff Court?—I have no doubt it is so.

56,841. Have you also to publish a calendar for the whole of Scotland?—Yes. The annual publication under the Sheriff Courts (Scotland) Act of 1876 of the Calendar of Confirmations and Inventories for the whole of Scotland is prepared by the Commissary Clerk of Edinburgh, compiled from the returns furnished to him every quarter by the various Sheriff Clerks throughout Scotland. Similar volumes are prepared for England and Ireland respectively by principal probate registrars of London and Dublin.

56,842. What is the staff of your office?—The staff of the Commissary Office consists of myself and a deputy, both appointed in terms of the 5th Section of the Act 4. George IV, chapter 97 (1823), a first clerk, and other eight clerks, assisted by four female typists.

56,843. The duties of those clerks are the carrying out of the various operations which you have described?—Yes.

56,844. The receipt of the wills, the recording, the copying, and issuing the confirmation?—Quite so.

56,845. Is the copying of the wills done entirely by the four female typists whom you mentioned?—Not entirely. All the clerks can type.

56,846. Some of them are employed on typing copies of the wills?—Yes, certainly. They can all type.

56,847. Does that apply also in the case of copies which are applied for by members of the public?—Yes, certainly. They would get official typed copies.

56,848. Those copies would be typed sometimes by the female typists and sometimes by the male clerks?—Quite so.

56,849. How are your clerks appointed?—By myself.

56,850. Are they pensionable?—No.

56,851. Have they any fixed age limit for retirement?—No.

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[Continued.]

56,852. What happens when they reach an advanced age and become somewhat past their work?—Curiously enough I have never had experience of that. The most distinguished man that was ever in our office, Mr. Currie, who wrote the great book on "Executors in Scotland," was over 50 years in the office, and he remained there till his death. He was my deputy for some time. I have never had experience of senility amongst my clerks.

56,853. Your staff appears to be a comparatively young one at present?—I think so.

56,854. Apart from your deputy, is it the case that the oldest clerk is at present 53 years of age?—That is so. I have handed in a document detailing the names, ages, and duties of the clerks, what their duties were when they entered the office, and what they are now.

56,855. What system do you follow in making appointments? Do you select men with previous legal experience?—Yes, I have done that—those with experience in the Scottish law offices.

56,856. Do you consider that the present system is satisfactory?—I mean the system under which clerks are appointed by yourself, having no Civil Service status and no pension system?—Of course, I have had no experience of the Civil Service. I never was under it, so I do not know what it implies, but I have had no trouble with my clerks in any way, and the public seem perfectly satisfied with the office—I am perfectly satisfied as to that.

56,857. How are the salaries of your clerks fixed?—When they start, we try to get them at a reasonable figure and then they gradually increase as the years go on. Say they start at about 60*l.* a year, they rise to 95*l.*, 100*l.*, 125*l.*, 145*l.*, 165*l.*, 270*l.*, and so on by years and by merit combined.

56,858. Who fixes their salaries?—I am supposed to fix them, but it is done, of course, with the assistance of my deputy, and almost invariably with the consent of the clerks themselves. I have never had any disputes about salaries with them.

56,859. Have you any limit of the total sum that you can spend in salaries?—The expenses of the office are paid by an annual Parliamentary grant, which amounts to about 2,600*l.*, and out of that we pay the expenses for the clerks' salaries.

56,860. How is that total sum fixed?—By Parliament. It has been paid for a long time.

56,861. Does it appear in the Estimates?—Yes, under the head of Commissary Clerk of Edinburgh.

56,862. The Commissary Clerk, Midlothian?—Yes.

56,863. Your allowance for your deputy and clerks is 1,770*l.* per annum, according to the Estimates for 1916?—Yes.

56,864. Have you entire freedom as to the manner in which that sum is distributed between your deputy and your clerks?—To a large extent. You must remember that I am in very close connection with the Exchequer, which is the office immediately next to mine—the representatives of the Treasury in Scotland—and as they audit my accounts once a month, they see everything that is going on, and they could perfectly well check anything. I do not take very many steps without consulting the Exchequer.

56,865. And the total sum is fixed by the Treasury, I presume, in consultation with you?—Quite so.

56,866. Do you consider that the present system should be continued, or that the staff should be made Civil servants?—I do not know what the Civil Service means, so I have a difficulty there. I am in favour of their getting pensions, of course, there is no doubt about that; and if you can arrange to give them larger salaries I shall be delighted. This matter was thoroughly threshed out by the Treasury a few years ago, and Sir Reginald McLeod, who was then representative of the Treasury in Scotland, came down and examined each clerk individually, and the result was that the petition at that time was not granted. Mr. Mowatt was the Secretary to the Treasury then, and there was a long correspondence on the matter. The Treasury then said that they had formed certain rules about law offices being placed upon fixed allowances, and they did not feel inclined to make any diversion from that;

but you will find these statements in the Treasury Minutes.

56,867. The Commission have received a representation from the clerks in your office, dated 5th June, 1912. Have you seen that document?—Yes.

56,868. They state: "In consequence of the Commissary Office never having been established under the Civil Service, the staff are placed in a manifestly unfair position as compared with the staffs of the Principal Probate Registries of London and Dublin. The salaries we receive are much lower than the salaries paid in either of these establishments; they do not advance by gradual increments to a maximum, any increase of salary being entirely dependent on such vacancies as may occur in the office from time to time; and, moreover, we have no prospect of a pension on retirement," and they ask that those matters should be remedied. Have you any observations to make on that representation?—I have simply to repeat that I should be delighted if they got pensions and higher salaries; but, as to the details of the Civil Service, I am ignorant of them, having never worked under them.

56,869. A suggestion has been made to the Commission by one witness, that there is no sufficient reason for treating Commissary work in Midlothian in a different manner from Commissary work elsewhere in Scotland, and that the work now done by the Commissary Office should be done by the Sheriff Clerk of Midlothian and his staff. What do you say as to that suggestion?—I have not heard of that suggestion before. I should require time to consider it.

56,870. You are not prepared to offer any opinion on it at present?—No, because I do not see how you could work it. Of course, I am saying that at the first blush.

56,871. The Commissary work in other counties in Scotland is done by the Sheriff Clerk, is it not?—Yes; but you see we are acting for all Scotland. I have given a great many instances of our work for all Scotland. It would involve the Sheriff Clerk of Midlothian undertaking our work for all Scotland. We have proved, I think sufficiently, that the office has been extremely economically worked, and I do not see how it could be more economically worked, because I have given the figures. Of course, if you or the Government chose to give the expenses of the Commissary office to the Sheriff Clerk of Midlothian, it would be simply robbing Peter to pay Paul.

56,872. You mean, if the work were transferred there would be no advantage as regards economy at any rate?—I do not see it, but I leave that to the Government to say. I do not see how any office could be more economically worked, and I have shown in my précis the enormous surplus made out of our office annually by the Government. The Commissary Office is quite a little gold mine to the Treasury, and I cannot see how they could possibly complain of it. In the course of my clerkship of 32 years I have remitted to the Treasury a sum of 45,653*l.* of net surplus. That seems to me an enormous sum. I do not suppose very many Government offices have done such a thing.

56,873. That depends upon the level at which the fees are fixed?—I do not know. The fees were fixed by the Government.

56,874. You say in your précis that you think that the organisation, privileges, and emoluments of your office should be similar to those of the Principal Probate Registries of London and Dublin?—Yes.

56,875. Will you explain that more fully?—I think I have said in another part of my précis that I should like to see the clerks rise by gradations, classified so that the salaries should increase according to the years of service. I think that is very proper. Then, I think, they ought also to get better salaries, and I think they ought to get pensions. All these things, of course, are in keeping with the Probate Registries of London and Dublin.

56,876. Is that what you mean by the "privileges"?—Yes, certainly; the pensions are privileges. The clerks are very keen about that—that they should get pensions. That is what they mainly want, I think.

56,877. There is nothing else that you include in the word "privileges"?—No, I think not. I think it is the

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Mr. RALPH RICHARDSON, W.S.

[Continued.]

pensions and the larger salaries that they want. I have not discussed that with them.

56,878. I am quoting from your *précis*, in which you say: "I am of opinion that the privileges granted to the Principal Probate Registries of London and Dublin, both analogous to this Department, should be extended to the Clerks in the Commissary Office, Edinburgh." The privileges mean the matters you have mentioned?—I think so. I do not know what other privileges there can be.

56,879. (*Mr. Graham Wallas.*) I understand from the list of figures handed in to us by your clerks for 1911 you issued probate for 755 wills?—Yes.

56,880. That is to say, a little over two a day?—Do you mean English probates, because we have no such thing as "probates" in Scotland?

56,881. Are they using the word in the English sense?—Do you mean what we call "confirmations"?

56,882. I mean whatever the clerks may have meant here?—The great point here is the inventories. The probates are the English, Colonial, and Irish ones. The Scotch ones are the inventories. They number 1,592.

56,883. Then to find the number of wills proved you have to add the probates to the inventories?—The probates are under a different system. They are signed and sealed by me, whereas the others, the confirmations, follow upon the inventories, and I sign them—that is the Scottish form.

56,884. I see you say, "The duties of my deputy are those of general correspondence." If a member of the public, or a lawyer, writes to you on the subject of the probate of a will, his letter is answered, is it not?—He looks after that generally.

56,885. You consider it part of your duty to the public to answer letters?—Certainly. I am at the office daily.

56,886. Are you aware that in the London Probate Office they refuse to answer letters on the ground that the man ought to call?—I do not know anything about the London Office.

56,887. A good deal of the work of the public in your office is to come in to see old wills—members of the public and lawyers come in for that purpose?—Yes.

56,888. How do you arrange? Do you make them comfortable? Do you give them a chair?—We have increased the size of our public room lately, and they certainly have desks, and we have a counter where the clerks hand out things. I assure you that so far as I know I have never heard any expression of complaint made regarding my office. I should be very keen to hear it.

56,889. You do not require them to stand?—Oh dear, no; not unless they like. We have a good bench for those that are weak, and ladies and others all sit there.

56,890. You have at present four ladies engaged in typing?—Yes.

56,891. Have you ever considered whether, if any of these women show real ability and become very familiar with your work, it could be possible to give them something better to do than typing?—We have not had them very long—not very many years. We took them on very much because we could not get men, and they have done admirably.

56,892. After a period of admirable service, do you think it possible to give them—as they are given in the Post Office, for instance—a certain amount of clerical work?—We are very much indebted to them. I may tell you that I have found some of these female typists doing in some cases double the work of a man. Whether it is their fingers or what I do not know, but they put through an enormous quantity of work as female typists.

56,893. I want to press the point whether it would be possible, in the case of an extremely competent woman typist, not to keep her all her life merely copying, but to use her capabilities in rather more varied clerical work?—We have not had a long enough experience of their ability beyond typing; that is all they have done.

56,894. You use a new and rather permanent ink with your typewriters now?—Yes, we have ink, of course, for the records.

56,895. You have no fear lest the typed document should fade nowadays?—I have never heard that.

56,896. And so far as you have seen the documents they show no tendency to fade?—No.

56,897. (*Mr. Matheson.*) What sort of education have your clerks generally had?—In Scotland they get a very good education at the School Board.

56,898. They come to you at what age generally?—I have given the ages on joining of the staff in the table—24, 25, 38, 19, 20, 21, 32, 19, 18, 23, 18.

56,899. (*Chairman.*) They have generally been something before they come to you, and have been in an office before that?—Yes, they are quite ripe.

56,900. Have they generally been in a solicitor's office?—Yes, I endeavour, if possible, to get those, although I am told that there is a difficulty in getting clerks, especially at this moment.

56,901. (*Lord Dundas.*) Owing to the war, do you mean?—Yes; our law clerks are very largely drawn upon now in Edinburgh.

ONE HUNDRED AND THIRTY-SIXTH DAY.

Wednesday, 2nd June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.

Sir JOHN ARROW KEMPE, K.C.B.

Sir GEORGE MORISON PAUL.

Mr. ARTHUR BOUTWOOD.

Mr. JOHN ROBERT CLYNES, M.P.

Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. CHRISTOPHER JOHNSTON BISSET (Sheriff Clerk of Forfarshire), representing the Association of Sheriff Clerks of Scotland, called and examined.

56,902. (*Chairman.*) You are Sheriff Clerk of Forfarshire?—Yes.

56,903. How long have you held that post?—Since 1904.

56,904. What had been your previous experience?—I had been practising as a solicitor in Dundee since 1897.

56,905. Are you also Secretary of the Association of Sheriff Clerks of Scotland?—Yes.

56,906. Does that body consist entirely of Sheriff Clerks?—It consists of the Sheriff Clerks with one addition—the Commissary Clerk of Edinburgh.

56,907. Does it include the whole of the Sheriff Clerks?—All except one.

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MR. CHRISTOPHER JOHNSTON BISSET.

[Continued.]

56,908. How long has your association been in existence?—Since 1877.

59,909. May we take your evidence to-day as representing the views of the Association?—Yes, I think you may.

56,910. Will you tell us first about the jurisdiction of the Sheriff Courts, so that we may have a general idea of the nature of the business that comes before those Courts?—The civil jurisdiction of the Sheriff Court is, in movable rights, unlimited, and in questions of heritable right and title and of succession to movables is extensive, but limited by a power to have certain causes of importance transferred to the Court of Session. The jurisdiction extends to maritime causes; actions of damages, actions of aliment, and of separation and aliment; the custody of children, the appointment of judicial factors, bankruptcy and insolvency, service of heirs, lunacy, Poor Law, registration of voters, fatal accident inquiries, workmen's compensation, and a great variety of subjects.

56,911. Does the civil jurisdiction cover practically the whole field of civil judicial matters?—Yes, in a sense it covers the whole field; of course, there are certain actions which are not competent in the Sheriff Court, but are reserved for the Supreme Court—the Court of Session. The civil jurisdiction of the Sheriff Court covers a very wide field indeed.

56,912. What is the criminal jurisdiction?—The criminal jurisdiction of the sheriff extends to crimes and offences prosecuted on indictment as well as to those prosecuted summarily, subject to the limitation that he cannot award penal servitude nor any higher punishment than imprisonment limited to two years.

56,913. Who decides whether a criminal prosecution takes place in the Sheriff Court or in the Court of Justiciary?—The Lord Advocate or one of the Advocates depute.

56,914. What other matters come before the Sheriff Court?—The sheriff has a Small Debt Court in which the jurisdiction is of a summary character and very wide. The limit in the Small Debt Court is 20l.

56,915. Does it also deal with commissary matters?—Yes. Since 1876 the powers and jurisdiction of commissariat belong to the Sheriff Court, and under that branch the confirmation and appointment of executors, which you describe in England as the grant of probate or letters of administration and the consequent duties of record, form an important part of the Sheriff Court jurisdiction.

56,916. Does that include the permanent record of wills?—Yes.

56,917. Under whose custody are the records of the Court?—Under the custody of the Sheriff Clerk.

56,918. Are they kept at each court locally, or at the head-quarters of the county, or where?—In the case of commissary records they are kept at each court which has a commissary jurisdiction. Some Seats of Court, a few, do not have commissary jurisdiction. But where there is commissary jurisdiction at the seat of the Court, the records for that purpose are kept there. In the case of the Register of Deeds, which is a register of writs recorded for preservation or execution, the writs are kept at the county town, as a rule, and not always at the head office.

56,919. In the case of applications for confirmation or appointment of executors, can an applicant go to any court he likes, or is it determined by the residence of the testator?—It is determined by the domicile of the testator.

56,920. He has no option in the matter?—No.

56,921. Who are the judges who deal with these matters?—The sheriffs.

56,922. The sheriff is non-resident?—He is non-resident, except in two cases—Edinburgh and Glasgow.

56,923. He is represented in practice by the Sheriff Substitute?—Yes, who is resident.

56,924. The Sheriffs Substitute are more numerous than the Sheriff Clerks, are they not?—Yes.

56,925. Are there 56 Sheriffs Substitute?—Yes.

56,926. How many Sheriff Clerks are there?—33.

56,927. That is to say, there is one Sheriff Clerk for each county, but in some cases there is more than one Sheriff Substitute for each county?—Yes.

56,928. What are the duties of the Sheriff Clerk?—The Sheriff Clerk acts as clerk of the Sheriff Court in all proceedings, civil and criminal. He has duties in nearly all the matters which falls within the executive, administrative, or judicial functions of the sheriff. He is keeper of and issues extracts from a register of deeds for preservation and execution. He has multifarious duties under special statutes. He is the custodian of consignations, and he judges of the sufficiency of caution. He discharges the duties under the Workmen's Compensation Act, which in England fall to the Registrar of the County Court. He collects all court fees and accounts to Exchequer for them. In the Commissary Department he performs, without reference to the sheriff, all the non-contentious or common-form business of the granting of confirmations (probate and administration), the recording of wills, and the administration of the Small Estates Acts. I may mention that the fees derived from the commissary branch of the work are about 40 per cent. of the whole fees, which is an indication of the extent of that part of the work.

56,929. Is it the case that the Sheriff Clerk has to deal with practically all the matters which are dealt with by the various offices of the Courts in Edinburgh?—He occupies the same position to the Sheriff Court as the Clerks of Court do to the Court of Session; in addition to which he has many duties of a different character under the special statutes, to which I have referred already.

56,930. In addition to that, he performs the duties which are performed by the extractor?—Yes.

56,931. Is there anything corresponding to the minute-book in the case of the Sheriff Court?—Yes, that also is kept by the Sheriff Clerk.

56,932. Does he also perform duties corresponding to those of the Clerk of Justiciary?—Yes, in so far as they relate to the criminal jurisdiction of the sheriff; that is to say, the Sheriff Clerk is the clerk of the Sheriff's Criminal Court.

56,933. He also has the commissary duties to perform?—Yes.

56,934. Would it be correct to put it in this way, that he has to perform duties corresponding to those of all the departments connected with the Court of Session and the Court of Justiciary, but that as the matters which come before a sheriff are of less importance than those which come before the Court of Session, the duties are correspondingly of less importance?—Yes, I think that would be a correct statement of the matter, so far as it goes.

56,935. But he has a very large variety of duties to perform?—Yes.

56,936. You mentioned the Register of Deeds. What is that?—That is a register of writs presented to be recorded for preservation or for execution.

56,937. What is the relation of the Register of Deeds kept by the Sheriff Clerk to the Central Register of Deeds in the Register House?—The Register of Deeds kept by the Sheriff Clerk is of the same character as the Register of Deeds kept by the Register House, but is applicable to deeds relating to the county.

56,938. What class of deeds are registered in the Sheriff Court?—Any probative writ, any deed, may be registered in the Sheriff Court books if the parties are resident in the sheriffdom.

56,939. What determines whether a deed is registered in the Sheriff Court books or in the Central Registry books?—Very often the matter is determined by the law agent, who acts in the matter. He may find it more convenient to send a deed to the County Registry than to Edinburgh.

56,940. Is the effect of registration identical?—Yes, preservation in the one case and execution in the other; that is to say, if the registration is required for the purpose of execution the sheriff's warrant is attached to the extract, and is a part of the extract, and diligence may proceed upon it.

56,941. If it is for the purpose of record and preservation the result is the same, whether it is recorded in the Register House or in the Sheriff Court?—Yes, the same.

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MR. CHRISTOPHER JOHNSTON BISSET.

[Continued.]

56,942. You mentioned also that the Sheriff Clerk is the custodian of consignations. What are consignations?—Money lodged in court.

56,943. Does that amount to anything considerable?—Sometimes. It varies very much, but sometimes consignations are quite large in amount. Any sum in dispute in an action may be consigned by Order of the Court or at the request of parties, and sometimes consignations are of considerable amount.

56,944. With respect to consignations, does the Sheriff Clerk perform the same function as is performed by the Accountant of Court in the Court of Session?—I do not know whether the Accountant of Court does take charge of consignations lodged in the Court of Session. I am not familiar with that matter.

56,945. In the Sheriff Court the Sheriff Clerk takes charge of consignations and has to account for them?—Yes, he is responsible for them.

56,946. And he pays them over by Order of the Court?—Yes.

56,947. (*Sir John Kempe.*) Are the fees collected by stamps?—No.

56,948. (*Chairman.*) Are they all paid in cash?—All paid in cash.

56,949. By what staff is the Sheriff Clerk assisted? The Sheriff Clerk receives an allowance from the Exchequer, which in most cases is a separate allowance from his own salary. He uses that for the payment of his staff, which he himself appoints.

56,950. Of what does that staff consist?—Some members of the staff are deputies of the Sheriff Clerk, others are ordinary clerks. Of course the number of the staff varies very much according to the size of the county and the importance of the work, and is always limited naturally by the amount available for the payment of staff.

56,951. How is that amount determined?—By the Treasury, upon consideration of the requirements of the county and of the work.

56,952. If you found your allowance insufficient, what steps would you take?—I should apply to the Treasury for an increase.

56,953. And then the matter would be discussed between you and the King's Remembrancer?—Yes.

56,954. The staff paid out of that allowance is appointed entirely by you?—Yes.

56,955. Have you the power of dismissal?—Yes.

56,956. Is the distribution of the sum available between the different members of that staff in your discretion, or is that fixed by the Treasury?—That is not fixed; it is in my discretion. I rather think that in certain cases the Treasury have made conditions with respect to the salary to be paid to certain deputies or clerks, but not so in my county, and I am not aware of the particular circumstances in that respect elsewhere.

56,957. How is the work distributed between the members of the staff?—All the members of the staff, both deputies and clerks, are available for any branch of the work as convenience may dictate, and in the execution of the ordinary work of the office the deputies and the other members of the staff all take their share and work together. The work is distributed among them by the Sheriff Clerk in the manner most likely to conduce to the efficient conduct of the work. In the larger offices, I may say, although each deputy may have the supervision of a department, there are senior clerks who themselves take charge of important branches of the work and are at the head of such branches, having clerks under them.

56,958. Will you give us a concrete example of the distribution of the work. Taking the case of your own county, we have before us the statement which you have given of the number, ages, and salaries of your own deputies and clerks. You have in the first place at Dundee three deputies and four clerks?—Yes.

56,959. How is the work distributed among them?—The senior deputy takes charge of the Court work; that is to say, he sits with the Sheriff Substitute as clerk of his court both civil and criminal.

56,960. How many Sheriff Substitutes are there in the county?—There is one at Dundee and one for the rest of the county who sits at Forfar and Arbroath.

56,961. He sits at those two places only?—Yes. There are other small debt circuit courts, but they are of minor importance and only occur about once a quarter or so.

56,962. Does a Sheriff Substitute take those Courts himself?—Yes.

56,963. Generally speaking, you have one Sheriff Substitute sitting at Dundee and one sitting at Forfar and Arbroath in turn?—Yes.

56,964. At Dundee your senior deputy attends in court?—Yes. Then the second deputy takes charge of the commissary work and the third of the small debt work. The others are assistants.

56,965. What is your own work?—My own work is the supervision of the whole, and I take more immediate charge of the commissary and workmen's compensation work and of the cash.

56,966. Do you sit in court yourself?—Yes.

56,967. Is that at Dundee or the other places?—Both at Dundee and the other places, but specially when the Sheriff Principal is sitting. I always act as clerk of the Court when he is sitting.

56,968. How often does the Sheriff Principal sit?—That depends upon the number of appeals to be disposed of. On an average the sheriff will sit once every six weeks or two months at Dundee, once every two months at Forfar, and perhaps four times a year at Arbroath.

56,969. (*Lord Dundas.*) He sits with juries also?—Yes. I am speaking of the appeals just now.

56,970. (*Chairman.*) Would that be for one day on each occasion?—No, it might be for a longer period. The Sheriff deals with a number of appeals and sits until they have all been heard. The Sheriff Principal also takes all the criminal jury trials both at Dundee and Forfar. Of course he has administrative work in addition which very frequently brings him to the county, and he deals with all applications of an administrative character himself.

56,971. At Forfar you have two deputies and three clerks?—Yes.

56,972. Does the senior deputy there attend in court?—Yes, and takes charge of the whole of the work there.

56,973. What are his duties when the Court is not sitting at Forfar?—He is the head of the office there and takes charge of all the office work. He deals with the commissary work himself. One of the clerks keeps the Register of Deeds which takes his whole time. The others assist.

56,974. At Arbroath the staff is smaller—one deputy and one clerk?—Yes, only one deputy and a boy.

56,975. We may infer from that that the work at Forfar is considerably greater than at Arbroath?—Yes, the work at Arbroath is small.

56,976. Do you yourself attend to the workmen's compensation work at Forfar and Arbroath, or is that done by the local staff?—I deal with it for the whole county.

56,977. Do you attend at Forfar and Arbroath for that purpose, or is your work entirely in Dundee?—I am required by my Commission to attend at Dundee, but I visit the offices at Forfar and Arbroath and supervise and take part of the work there.

56,978. There are also Small Debt Circuits at Montrose and Brechin?—Yes.

56,979. And a small fee is paid to somebody for attending to the work of those Small Debt Circuits?—The work there is very small indeed now.

56,980. May the arrangements be summed up in this way. You yourself supervise the whole work of the offices of the Sheriff Courts in the county and attend personally whenever the sheriff sits himself, and occasionally in the Sheriffs Substitutes' Courts. There is one deputy at Dundee and one at Forfar and one at Arbroath, whose special duty it is to attend the Court when it is sitting, and that deputy with the other deputies and clerks attends to the work generally at each place, with the exception of such work as is specially looked after by you personally;—in particular,

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[Continued.]

workmen's compensation work. Would that be a correct summary of the situation?—Yes, that is correct. I, personally, look after the custody of the fees and of the consignations, in addition to the work already mentioned.

56,981. In what sense do you personally look after it?—I keep the cash-book and ledger for the whole county. The fees are paid into the bank each week, and I keep the cash-book.

56,982. The fees are collected in cash by one of the clerks, paid into the bank, and accounted for to you?—Yes.

56,983. And you keep a general account of the fees?—I do.

56,984. Are consignations paid direct to you?—Those are placed on deposit receipt by me whenever they are received, and I keep a record of them.

56,985. You have a separate deposit receipt for each consignment?—Yes, for each consignment over 5*l*.

56,986. Small consignations under 5*l*. are kept in a general account?—They are placed in a separate banking account, but not on deposit receipt.

56,987. Would your description of the arrangements for the distribution of work among the staff apply in other counties too?—I think it would. Of course so much depends upon the size of the staff and distribution of it; but, speaking generally, I think this would be a typical case. Lanarkshire is, of course, different, because there is such a large staff there.

56,988. What is the number of the staff in Lanarkshire?—I think between 60 and 70.

56,989. Would it be correct to say that the larger the court and the larger the staff the greater the specialisation of the work among the staff?—Yes.

56,990. In a small county you would have a small staff, and each member of the staff would have to do a great variety of work?—That is quite true.

56,991. Where the work is very large, you would have one depute in charge of the commissary work, another in charge of the small debt work, and so on. In fact, the work would be specialised with a separate staff attached to each department?—Yes, and in the case of Lanarkshire a clerk is attached, I understand, to each Sheriff Substitute.

56,992. In what sense is a clerk attached to each Sheriff Substitute?—I understand that in Lanarkshire each Sheriff Substitute has a clerk who is one of the staff of the Sheriff Clerk.

56,993. In Lanarkshire is there a depute attached to each court?—Yes.

56,994. And there is also a special clerk attached personally to each Sheriff Substitute?—Yes.

56,995. At each court which the Sheriff Substitute holds, certain functions are discharged by the local depute?—Yes.

56,996. And other functions are discharged by the clerk who is attached personally to the Sheriff Substitute?—Yes.

56,997. How are those functions distinguished?—It is difficult for me to answer that as it relates to another Sheriffdom. I suppose the depute keeps the records of the Court, calls the cases, and notes the interlocutors. The clerk, while a proof is going on, would take charge of whatever matter was necessary in the conduct of the proof, have the process in his hand, and carry out any instructions that the sheriff gave to him. And similarly in a debate. I do not know, but I should imagine that he would write out the sheriff's interlocutors and notes.

56,998. The clerk attached to the sheriff performs more the duties of a personal clerk of the sheriff?—Yes.

56,999. And the depute performs the formal duties of record and other official duties connected with the Court?—Yes; that is, really, the distinction; one being rather more official and the other more personal, although they are both discharging duties that have to be performed in the Court's service.

57,000. Is there no conflict or confusion of duties between the two?—I have not heard of any, and I do

not think there is any. It is well arranged and understood what the respective duties are.*

57,001. Does the depute, in the course of his duties, gain experience of all matters that are dealt with by the Sheriff Clerk himself?—Yes.

57,002. Will you tell us now about the appointment and qualifications of the Sheriff Clerks? In the first place, by whom is a Sheriff Clerk appointed?—The Sheriff Clerk is appointed on the recommendation of the Secretary for Scotland. The members of his staff are appointed by the Sheriff Clerk himself.

57,003. In fact, is it the case that the recommendation of the Secretary for Scotland is made upon the nomination of the Lord Advocate?—Yes, so I understand.

57,004. Practically the selection of the Sheriff Clerks rests with the Lord Advocate?—Yes.

57,005. Is there any statutory qualification for a Sheriff Clerk?—No.

57,006. In practice is any particular qualification required?—In practice the Sheriff Clerk appointed has always been either a practising solicitor or one who has had experience in a Sheriff Court. I do not remember any case which is an exception to that in my experience.

57,007. Can you say at all among the present Sheriff Clerks how many have previously been deputes?—I cannot say just now how many have been deputes, but I should think half a dozen.

57,008. The large majority then were solicitors in practice?—Yes.

57,009. Do you consider it necessary or advisable that the Sheriff Clerk should have been a solicitor in practice?—I think it is desirable.

57,010. Do you think it is preferable that he should have been a solicitor in practice rather than that he should have been in a Sheriff Clerk's office?—Yes.

57,011. What are your grounds for that opinion?—The man who has been in practice has had a wider experience, and probably has a wider outlook. The man who has been brought up in the office has not passed any entrance or qualifying examination; he has been taken into the office as a boy and has simply grown up in the service, acquiring all the time a great amount of experience, I admit, of the particular kind of work he has to do, but it is rather a narrow career, and I think that is a sufficient ground in itself for looking outside the office for a head. Of course there is another reason: there are many branches of the work in which it is of importance that the Sheriff Clerk should have had a legal training.

57,012. Will you give an instance?—Commissary work and the service of heirs are two examples.

57,013. Taking the case of commissary work, would practice as a solicitor be more valuable than the knowledge of the work which would be acquired by a junior member of the staff?—Not so much the practice as a solicitor, but the fact that the practising solicitor has passed through the qualifying examinations and knows the law.

57,014. The law which has to be dealt with in the commissary work is of a limited and special character?—Yes, it is of a special character.

57,015. Is not that particular law satisfactorily learnt by doing the work in the office?—I think in the case of the existing deputes it is particularly well done. I do not suggest for a moment that it is not well done, but at the same time I do think that it is preferable that the head of the Sheriff Clerk's Office should be a man who is qualified as a law agent.

57,016. You gave us that class of work as an instance. For that particular work, is the greater width of outlook that might have been acquired in the outside profession of any particular value?—No, I

* I find that in my evidence before Lord Salvesen's Committee I explained the matter thus:—"In Glasgow, where seven Sheriffs are sitting continuously, the Clerks (not Deputes) attached to the Sheriffs, alone are, in Civil cases, in attendance during proofs and debates—the real trial of the cause—while a Depute attends in court when the formal procedure is being dealt with; but by far the greater part of the Sheriff Clerk's work is done in the office and not in the court."—C. J. B.

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should not say that it is. I put that as a more general ground, not with special reference to any department of the work—that I think you would probably get a better man, especially when he has to supervise the work of other members of the staff.

57,017. You have told us that at present there are 33 Sheriff Clerks?—Yes.

57,018. The size of the districts over which Sheriff Clerks preside varies considerably?—Yes.

57,019. And the salaries vary considerably?—Yes.

57,020. Is there any system of transfer or promotion from one Sheriff Clerkship to another?—No system.

57,021. Have such promotions taken place?—Very seldom.

57,022. Do you consider it desirable that there should be such a system?—Yes, I consider it desirable, and that I believe to be the opinion of the Sheriff Clerks as a whole, although I am bound to say that quite a number of those who hold office at present would not care to remove from the districts in which they are situated.

57,023. You speak of men who have been in a particular place a number of years and would not care to leave it?—Yes; especially bearing in mind that quite a number of them have been appointed to their offices rather late in life. It would be quite different if a new system were established in which men might enter the service at an early age and look forward to promotion to the chief posts.

57,024. If the service were recruited upon that principle you anticipate that there would be no difficulty as regards the change of residence?—No, I think not.

57,025. You think a man who entered with that prospect would be prepared to change his place of residence in order to obtain promotion to a better post?—Yes. Some of those who at present hold office are quite anxious, on their own account, to have promotion, and are ready to change from one place to another.

57,026. Do you consider that that would produce favourable results on the staffing of the service? If that was the system, would you get a larger field of persons anxious to enter the service than at present, speaking now of the principal office of Sheriff Clerk?—The field is wide enough at present. The Lord Advocate has the choice of all the law agents in Scotland, and all the deutes, too.

57,027. There is no lack of candidates at present?—No, but it would improve the service generally, I am sure.

57,028. At present the appointments are, in almost all cases, direct and from outside?—Yes.

57,029. To what extent are they political appointments?—They are nearly always political appointments.

57,030. It is recognised and acknowledged that that is the principle on which appointments are made?—Yes.

57,031. In fact, a law agent would never expect to be appointed Sheriff Clerk except by a Lord Advocate of his own political party?—No.

57,032. Do you think that that system is open to objection?—Well, I owe my own appointment to it.

57,033. Looking at the matter apart from any personal considerations, do you think it is the right system?—It has produced good men in the past.

57,034. If you were setting up the service afresh, and laying down a system of appointments, is that the system that you would lay down?—No.

57,035. What system would you lay down?—I should lay down the system that I have outlined in my précis—that appointments should be made from the body of qualified law agents. As to the method of selection I am not prepared to make any suggestion, but I have no doubt the usual method of the Civil Service would be suitable in this instance.

57,036. Before dealing further with the question of the appointment of the Sheriff Clerks themselves, it may be convenient to deal first with the question of their staff because the two questions are connected with one another. You have told us that the staff is at present appointed by the Sheriff Clerk himself. What

is their tenure?—They hold office at the pleasure of the Sheriff Clerk.

57,037. If there is a change of Sheriff Clerk, have they to be re-appointed?—Yes.

57,038. In practice does the incoming Sheriff Clerk always re-appoint the existing staff?—Yes, he would be very foolish if he did not.

57,039. Have you ever known any case to the contrary?—No. He comes in a stranger and does not know the work; they all do know the work, and are likely to be of special use to him, and therefore he would be very foolish if he made any change. I do not think any Sheriff Clerk appointed would ever dream of doing it. As a matter of fact, deutes and members of the staff, although their tenure is nominally at the pleasure of the Sheriff Clerk, do have substantial security in the experience that they have gained in the work, and one has not heard of any case of hardship or injustice arising out of the dismissal of a member of the staff. There have been cases of dismissal.

57,040. In your evidence before Lord Salvesen's Committee of 1910, you mentioned that you had made inquiry, and had ascertained that in recent years there had been four cases of dismissal, and that in each of those four cases the dismissal was for gross misconduct or neglect?—Yes.

57,041. Can you complete that statement up to the present time? Have you known of any case of dismissal since then?—I have not heard of any case since then.

57,042. When vacancies occur in the staff of a Sheriff Clerk's office, how are they generally filled?—They are nearly always filled by promotion or by a re-arrangement all round of the office—a re-arrangement of the places in the office and of the salaries. If a man holding a senior post leaves the office, the opportunity is taken to bring everybody a step up, and re-arrange all round.

57,043. You move everybody a step up and bring in a boy at the bottom?—Yes, that is what happens in nearly every case. In a big office like Lanarkshire you could not benefit everybody, but you do benefit a substantial section of the staff when such an opportunity arises.

57,044. Are appointments ever made direct from outside to one of the higher posts—to the deute's post, for instance?—Very seldom. It is long since I heard of any such case—it was before my own appointment.

57,045. That, I suppose, would only be where there was not a sufficiently well qualified man in the office already?—Yes, or in the service of some other Sheriff Clerk.

57,046. Are transfers between different Sheriff Clerk offices frequent?—Not frequent, but they occur. They occur more often in the smaller offices; when there is nobody in training to fill a vacant post the Sheriff Clerk may apply to one of his colleagues to find out whether there is anyone suitable.

57,047. Between the different offices under your own supervision are transfers frequent?—I cannot say that they are frequent.

57,048. Taking your own county, you have Dundee, Forfar, and Arbroath: do you treat the staff of all three places as a single staff, or is each place treated separately?—I treat it as a single staff, and if an opportunity for promotion arises the whole staff is considered.

57,049. You shift a man freely from one of those places to another if it is necessary for the re-arrangement of the work, or to give opportunities for promotion?—Yes. For example; two of my clerks at Dundee were trained in Forfar.

57,050. If you have not a man sufficiently well qualified in your own staff you would inquire of one of your colleagues whether he had a suitable man he could send you?—Yes.

57,051. Generally speaking, new appointments are at the bottom of the list?—Yes.

57,052. At what age do lads generally come in?—One takes them in as young lads—14 to 16.

57,053. Direct from school?—Yes.

57,054. Without any previous experience in a solicitor's office?—Without any previous experience. The difficulty there is, that each Sheriff Clerk's office stands

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by itself, and cannot offer very definite prospects to young lads coming in. The great difficulty is, that a young lad has often to stay, in the earlier years, for a very small salary (which the Sheriff Clerk cannot increase because of the limit of his allowance), in the hope that something will turn up by which he will receive a step in promotion some time. But it is not satisfactory, either for the lad or the Sheriff Clerk, and one has to tell these young lads that one cannot hold out any definite prospects of promotion or advancement, and that they must just take their risk. I always tell the parents that that is the state of matters.

57,055. Do your junior clerks often leave you for other work?—Yes; I should think about half leave and half stay. I am speaking of a comparatively small staff in Forfarshire, a staff in which changes do not frequently occur; but, if one takes the last 10 years, quite a number of young lads have come in and have left for other posts.

57,056. To go into private employment?—Yes.

57,057. Employment of a legal character?—They usually go either to a solicitor's office or to a Procurator Fiscal's office, or an office in connection with the county staff—County Clerk's or Chief Constable's or the Police Department—something allied to the Judicial Department.

57,058. Do you find any difficulty in getting suitable lads to fill their places?—There is considerable difficulty in finding suitable lads, owing to the uncertainty that I have indicated.

57,059. That is, the uncertainty of the prospects?—The uncertainty of the prospects.

57,060. Looking at your staff at Dundee, I see one clerk whose age is 41, who was appointed two years ago and whose salary is 42*l.* a year. Does he give his whole time to the service?—No.

57,061. What is the nature of his appointment?—He is the shorthand writer of Court in addition to holding this office under me.

57,062. So that he receives other remuneration as shorthand writer?—Yes.

57,063. The remainder of the staff all entered as lads and worked up?—Yes.

57,064. (*Mr. Coward.*) There are two ladies?—Those are typists. There is also one at Forfar.

57,065. (*Chairman.*) What is the position as regards pension?—There is no provision for pension, either of the Sheriff Clerk or any of his staff.

57,066. Is there any fixed age for retirement?—No.

57,067. Neither in the case of the Sheriff Clerk nor of the staff?—There is no fixed age for retirement. There is a paragraph which occurs in the commissions of Sheriff Clerks who have been more recently appointed, which runs: "That in the event of any regulation being made hereafter requiring that the office of Sheriff Clerk shall become vacant on the holder attaining the age of 70 years, the appointment shall be held to have been made subject to such condition without claim to compensation." One is not informed of that qualification when one is offered the appointment by the Lord Advocate, and the result is that, after one has accepted, the commission comes, and this condition is discovered for the first time.

57,068. But it has not been brought into force yet?—Not in any case so far as I am aware.

57,069. Are Sheriff Clerks and their staff required to give their whole time to their work?—I think in the recent commissions, and in important counties, the Sheriff Clerk is required to devote his whole time to the office. Sometimes that is qualified by a permission to the Sheriff Clerk to hold other offices of a public character if the sheriff of the county approve.

57,070. Does a Sheriff Clerk in many cases at present carry on private business of his own?—I think 9 or 10 of the present Sheriff Clerks carry on private business.

57,071. Are any of those recent appointments?—Those include all the small counties in which it is hardly possible to make the restriction against private practice—I mean counties like Nairn, Kinross, Clackmannan, and Bute.

57,072. In the larger counties the Sheriff Clerk has no private practice?—No.

57,073. Has he, in many cases, other public offices?—Yes, in quite a number of instances he has other public offices. In a good many places the Sheriff Clerk is either auditor or joint auditor of Court. A few Sheriff Clerks have the office of clerk to the Income Tax Commissioners; three, I think, are county clerks, and some are clerks to the Lieutenancy.

57,074. Do those other offices occupy any considerable part of their time?—No.

57,075. Would not the office of county clerk occupy a considerable part of their time?—Those are in the smaller counties—Clackmannan, Kinross, and Shetland, and in those cases, I should think, there is not very much work in the county clerkship; but probably it is a more important appointment than the sheriff clerkship, and they would both be attached to private practice.

57,076. Do they bring any considerable addition to the emoluments?—I am not able to speak as to the emoluments of those offices.

57,077. Is it a matter of discretion with the Sheriff Clerk how much personal attention and time he gives to the work of his office?—No; the Sheriff Clerk is required by his commission to give personal attendance.

57,078. Does the commission define how much personal attendance he has to give?—In my own case it does. It requires me to attend at Dundee during ordinary office hours.

57,079. Is that the case generally in the commissions of Sheriff Clerks?—In the larger counties, I understand, it is.

57,080. In the evidence given before Lord Salvesen's Committee I see this question and answer: "Is it the experience of your association"—the witness was a representative of the Sheriff Clerks Depute Association—"that some Sheriff Clerks take divergent views of their duties—that some work themselves, and that some look upon their appointment as practically a gift for political services. (A.) Yes"?—I do not agree with that answer.

57,081. Before the present Commission the King's and Lord Treasurer's Remembrancer, in giving evidence, made the following statement: "There are cases of Sheriff Clerks who, I think, one might truthfully say, do nothing; they may sign their name once or twice a quarter, and they may have very large solicitor's businesses of their own which they are running, and the whole work is done by their deputies." That was said a fortnight ago. Do you confirm that?—The King's Remembrancer knows better than I do. I would not care to contradict him, but he may refer to one or two exceptional cases of the men who held office under the old system; I rather think he does there; I mean the old system under which the Sheriff Clerk was appointed before the Exchequer had anything to do with the collection of the fees; the Sheriff Clerk drew the fees himself and appointed his own deputies. Then the system was altered. The Exchequer took charge of the fees, and fixed the salary of the Sheriff Clerk and his staff allowance. The whole system has been subject to a gradual improvement. Of course, you have to graft the new upon the old, and there may be some survivals of the looser practice of former times; but, certainly in the recent appointments, and in the case of the men whom I know personally, and who take an active interest in the work of my association and of the Sheriff Clerk's duties generally, that remark does not apply.

57,082. Would it be desirable to lay down a general rule that Sheriff Clerks should hold no office and engage in no business other than that of their own office?—I think that would be quite a proper rule, providing the salary were made a sufficient one.

57,083. You mentioned the case of the smaller counties, where the work is very small. As matters are at present arranged, it might be difficult in those counties to require a man to give his whole time to the work?—It would be difficult just now.

57,084. If the work is small, it would mean that during the rest of his time he would be idle?—Yes.

57,085. Would it be desirable to combine the smaller counties and reduce the number of Sheriff Clerks?—I think it would. That proposal has been approved by the members of my association.

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57,086. What exactly is the suggestion?—The proposal was made by Lord Salvesen's Committee that the number of Sheriff Clerks should be reduced to 15, which would provide one Sheriff Clerk for each Sheriff Principal, that is, for each sheriffdom.

57,087. In that case there would be no difficulty in laying down that each Sheriff Clerk should give his whole time to his duties?—No, I should think not in that case.

57,088. Are there any sheriffdoms where the Sheriff Clerk would not have full work?—I think all the sheriffdoms would afford a considerable amount of work. The work in some sheriffdoms would be much greater than the work in others; but that would not be an objection to the system as a whole.

57,089. That would be met by corresponding variations in the salaries?—Yes, and in the prospects of promotion.

57,090. But even in the smaller sheriffdoms, do you think there would be enough work to occupy a man's energies?—Yes, I think there would. The salary might not be very large in such a case.

57,091. In the sheriffdoms where the work is less, probably the amount of travelling would be greater, and those two elements would to some extent compensate each other?—Yes, that is true.

57,092. If the number of Sheriff Clerks were reduced to 15, what do you consider should be the method of appointment?—In that case, I think the men who have office at present have the first claim to any vacancies that occur.

57,093. The reduction, no doubt, would have to be effected gradually?—It would have to be effected gradually, and when combinations were possible, the man on the spot would have a claim to consideration, or, at any rate, to put it more broadly, you could not carry out the system without appointing the existing Sheriff Clerks to hold the new combined offices—unless you retired a number of them.

57,094. That being the case, would you continue the present system of appointment by the Secretary of State for Scotland on the nomination of the Lord Advocate, or do you recommend any modification of that?—The statement in my précis that appointments are made by the Crown on the recommendation of the Secretary for Scotland, is taken from Sheriff Wallace's book; my own commission runs in the name of the Secretary for Scotland. One receives a letter from the Lord Advocate offering the appointment, and the commission runs in the name of the Secretary for Scotland.

57,095. Do you suggest any alteration in that system with respect to the appointment of the 15?—I am not prepared to suggest any alteration there, unless you make it a Civil Service department pure and simple from top to bottom.

57,096. Coming to that question, you have told us that the staff of the Sheriff Clerks are appointed by the Sheriff Clerks themselves, and that interchange between different counties is exceptional?—Yes.

57,097. Do you think it practicable and desirable to make the clerical staff into a single service, with promotion throughout on the same lines?—Yes.

57,098. Will you explain more fully how that would work in practice?—Of course, one must set aside the cases of very minor appointments and junior appointments, but with those exceptions I think there will remain a considerable body of men who would be capable of inclusion in a general scheme. The salaries would have to be fixed and their respective posts assigned; but there does not appear to me to be any real difficulty with regard to the promotion of such men from one place to another and their holding office in a general system.

57,099. By whom would that general system be controlled?—That raises this difficulty: the sheriff clerk is at present in charge of his own office, and if you are to have a system of promotion of that character you must alter that and must place someone or some body in supervision, with power to make changes as they may become necessary. It was suggested by some of the members of Lord Salvesen's Committee that a supervisor should be appointed for the whole body.

Some of the Sheriff Clerks considered that, and it did not appear to us to be necessary to create a post of that character for such a small staff as 220 or thereby, and it occurred to us that some sort of committee arrangement would be the most suitable, bringing in the King's Remembrancer, who knows all about our staff, to guide such committee in its action.

57,100. What sort of committee do you suggest?—A committee of Sheriff Clerks.

57,101. The Sheriff Clerks being, according to your suggestion, reduced to 15 in number, you would have a small committee selected from among those 15?—Yes.

57,102. How do you suggest that it should be selected?—Either by the selection of some of the Sheriff Clerks of the more important sheriffdoms, or by the nomination of the Sheriff Clerks themselves. The Sheriff Clerk of Lanarkshire, for example, would naturally be a member of such a committee, because of the large portion of the staff which falls to be allocated to his sheriffdom.

57,103. You would suggest a small committee, I suppose?—Yes.

57,104. Three members?—Yes.

57,105. And you propose that the King's and Lord Treasurer's Remembrancer should sit as President?—Yes.

57,106. What would be the powers, in your view, of that committee?—Powers of promotion and powers of discipline.

57,107. Would they make the original appointments to the Sheriff Clerks' staff?—My suggestion with regard to original appointments is that they should be made from the existing staff, that you should select from the existing staff such members of the staff as are to be included in the new scheme, and that they should be eligible for appointment.

57,108. That would be at the first beginning?—Yes.

57,109. But for a continuing system of recruitment what do you suggest?—For a continuing system, the field of selection should consist of the members of the staff to whom I have already referred, and members of the staff who are not on the system at its commencement but who have entered afterwards and have qualified in such manner as may be prescribed.

57,110. Then you would have a clear distinction between a certain part of the staff which is on the establishment and another part of the staff which is not on the establishment?—Yes.

57,111. And you would recruit the established staff from the non-established staff?—From those who have come in later. My suggestion is that the established staff should be the main portion of the existing staff, and the non-established staff would be those holding minor and petty appointments.

57,112. That would be at the beginning?—Yes.

57,113. You have a staff, you say, of 220 or thereabouts, in all?—Yes.

57,114. A certain number of those, taking a figure at random, say 150, would become established, and the remaining 70 would be unestablished?—Yes.

57,115. Those 70 would be eligible for filling future vacancies in the established staff?—Yes.

57,116. But how would you fill up vacancies in that non-established 70?—From outside.

57,117. Who would appoint—the committee?—I think there ought to be some examination test.

57,118. A competitive examination?—I suggest that the suitable examination would be the entrance examination under the Regulations for the Admission of Law Agents.

57,119. At what age is that examination passed?—That is passed about 16, I think, as a rule. It is an examination equivalent to the Intermediate Certificate of the Scotch Education Department.

57,120. Is that an examination in the general subjects of education, or in legal matters?—General knowledge. There are two general knowledge examinations under the Law Agents' Regulations—the entrance examination and the second examination in general knowledge. The third and final examination is in law.

57,121. Would there not be some advantage in having a more general qualification, such as the leaving

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certificate?—There would be no objection to that; indeed, the Intermediate Certificate is equivalent to the Law Agents' entrance examination.

57,122. Is the standard much the same?—It is the same. Leaving certificates are accepted in substitution for the entrance and second examinations under the Law Agents' Regulations. It is provided that the Law Agents' entrance and second examinations are to be as nearly as possible equivalent to the intermediate and leaving certificates.

57,123. You would require that as a qualification. How would you select from among persons possessing that qualification?—I should not think there would be much difficulty in selection.

57,124. By whom would the selection be made?—I think it would be quite proper to leave the original selection in the hands of the Sheriff Clerk who required some one to join his staff; he would be able to apply local knowledge.

57,125. Would the unestablished staff, appointed in this way, be exclusively eligible for appointment to the established posts, or would you admit appointments from outside as well?—I think, after the scheme had been in operation for some time, it would not be necessary to make any appointments from outside, but it is just possible that for the higher posts—though experience shows that in the past it has not been necessary—occasionally an appointment would be made from outside, and I would not shut the door to that. I would leave it open to appoint qualified law agents to the higher posts in the establishment, but I would make that conditional upon no other member of the staff of the establishment being eligible for such appointment, and also on the approval of the Secretary of State for Scotland, or the Lord Advocate, having been obtained. I think one must try to be fair to the existing members of the established staff after it has been established.

57,126. You would admit appointments from the outside, but you would hedge them round with restrictions to ensure that they should not be made without sufficient cause, having regard to the interests of the established staff?—Yes.

57,127. You think that an unestablished staff, recruited in the way you suggest, would provide a sufficient number of good candidates for appointment to the established staff?—I think so, and probably also to the higher posts, such as the appointment to a Sheriff Clerkship itself.

57,128. Would you make the appointment of Sheriff Clerk normally by promotion from among the deputies?—After the scheme had been in operation for a sufficiently long time, it would probably come to that.

57,129. You told us that for the post of Sheriff Clerk you attached importance to the wider outlook and experience obtained in the outside profession?—Yes.

57,130. Does not your present suggestion somewhat conflict with that opinion?—I say that I think you will then be dealing with a staff that has been recruited very largely from the ranks of qualified law agents, because my suggestion is that entrants should pass the examination required for law agents, and should not be eligible for the higher posts in the staff unless they themselves had become qualified law agents.

57,131. But you propose to recruit your junior staff at the age of 16 or thereabouts from persons who have passed an examination in general knowledge, and not in any legal subjects. Surely a staff recruited in that way would not provide you with any men equipped with outside legal experience?—Not with outside legal experience. I quite see that if you admit them to the office in that way, you lose the advantage, if any, of previous outside experience and practice. I did not say that I thought it would be desirable that all outside appointments should cease, but I say I think if the staff were fully qualified, it would probably lead to the Lord Advocate making his selection from the existing staff after the scheme had been in operation for a certain time. He would have applications from men who were qualified as law agents, and who had served a long time on the staff, and I should think under such a system the tendency would be to make appointments from the staff to the higher posts.

57,132. You think that that tendency would be advantageous on the whole?—If it is worked upon such a system I think it would be fair, and would also be in the public interest.

57,133. The advantage of having an organised service and a reasonable flow of promotion would counterbalance any disadvantage which, in your view, would arise from not having men in the higher posts with outside experience?—Yes, that is just the point.

57,134. You would retain the present method of appointment of the Sheriff Clerks themselves by the Lord Advocate?—Yes. I have not seen any reason to suggest an alteration in that.

57,135. You have told us that at present the Lord Advocate's appointments are, it is recognised, made frequently, or in the majority of cases, on political grounds?—Yes.

57,136. If you retain the same system of appointment, is there any reason to expect that the principle on which the appointments are made will change?—Yes, I think there is. I have just suggested that if you have an established system, it is quite probable that the Lord Advocate will make his selection from within the ranks. That is happening at the present time in the case of Procurators Fiscal; the Lord Advocate, in his recent appointments, has made them by promotion from the existing staff. That may be because the Lord Advocate is himself the head of that department.

57,137. Whether that was continued or not would depend on the personal views of the Lord Advocate?—Yes, it would.

57,138. And in some degree on the amount of political pressure that was brought to bear upon him?—Possibly.

57,139. Would there not be some advantage in so modifying the method of appointment as to mark the intention to change the principles upon which appointments were to be made. In the case of the English legal appointments it has been suggested by witnesses of weight that the Lord Chancellor, who is the appointing authority in most cases in the English offices, should be assisted by a permanent and non-political committee, who should make recommendations to him with regard to the merits of different candidates. Do you think that such a system would be applicable in Scotland, considering it specially with regard to the Sheriff Clerks' appointments?—Yes. If you want to get rid of the political aspect of the matter, there should not be any difficulty in devising another method. What that method should be I am not prepared to suggest just now, but I have already said, in answer to your question, that if one were framing a scheme for the first time, one would not include that element.

57,140. If you had a service organised on the lines you suggest, you would, I presume, make the established staff pensionable?—Yes.

57,141. Would you, in that case, fix an age limit for retirement?—Yes, I think that would be necessary.

57,142. The ordinary Civil Service limit is 65, with power of possible extension as far as the age of 70. Would that limit be suitable?—Lord Salvesen's Committee indicated 70 as the age, with which I see no reason to disagree.

57,143. Do you see any reason why, for the staff generally, there should be a different age from that appointed for the Civil Service in general?—No.

57,144. The established staff which you suggest would consist entirely of whole-time employees?—Yes; but I would not shut the door to the holding of appointments like the Auditorship of Court with anything that it might bring in, but I think the Treasury would probably require to take into account in fixing salaries income derived from such office. It is very convenient that an office like the auditorship should be held by one who is an official of the Court.

57,145. Why?—It works very well in practice just now. The appointment is held either by the Sheriff Clerk or more usually by the Sheriff Clerk Depute, and he is familiar with the process and all the steps and proceedings in an action, and is in a particularly favourable position for acting as auditor.

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[Continued.]

57,146. Given that it is desirable that that work should be done by the official staff, is there any reason why that work in particular should be remunerated by fees?—No. Necessarily it is at present remunerated by fees, because the work is done in a particular case, and has to be paid for by fee.

57,147. The fees might be paid into the Exchequer, as in the case of other Court fees?—That is quite possible.

57,148. And the work done in that respect included in the work for which a salary is paid?—I agree that that would be quite feasible.

57,149. Is there any special reason why that work should be treated on a different footing from other official work?—No. If the Treasury took over that department of the work the fees would go to the Treasury, and the increase of salary would be paid accordingly to the men who did the work. I see no objection to that.

57,150. In the English Court the taxing is entirely done by a salaried staff, and all fees for taxation are paid into the Exchequer. Do you see any reason why a similar system should not be applied in the Sheriff Courts, provided that suitable salaries were fixed?—No.

57,151. Do you apply your remark about holding other posts to any other work done at present by Sheriff Clerks or their staff?—No, not when one is dealing with the appointments under a new establishment, but I think it is right that I should say that with regard to those Sheriff Clerks who at present hold office, their interests ought to be safeguarded in the event of any change of that character being made.

57,152. I see you stated in your evidence before Lord Salvesen's Committee that you had inquired as to the number of deputies holding other appointments or carrying on separate business, and that out of 60 cases 38 held other appointments or carried on separate business, that is to say, 62 per cent.?—Yes.

57,153. Would those figures be correct at the present time?—I think they would be substantially correct at the present time.

57,154. Can you say whether, in many of those cases, the work, other than the Sheriff Court work, constitutes a large part of the work done by the officer?—A number of the cases included there are, I think, cases which would not come upon a new establishment.

57,155. They would be cases at the smaller courts, where the office could not conveniently be made a whole time office, and where it would remain one of the unestablished posts?—Yes.

57,156. As regards the posts which you would make established, that difficulty about whole time would not be a very serious one?—No, I think that could be got over.

57,157. Will you summarize for the Commission the suggestions which you have made in the course of your evidence?—(1) Reduce number of Sheriff Clerks, as vacancies occur, to one in each sherriffdom. (2) Sheriff Clerks hereafter appointed to be debarred from private practice and to give whole time, and to retire on pension at a specified age. (3) No new restriction to be imposed on present Sheriff Clerks against the conduct of private practice or the holding of other appointments, unless, of course, they receive compensation. (4) On occurrence of vacancies and consequent combination of appointments under No. 1, existing Sheriff Clerks should be appointed or transferred, in which case, if the combined salary were sufficient, restrictions against private practice and other appointments might be imposed where necessary. (5) Optional retirement on pension of existing Sheriff Clerks after a certain age or period of service. (6) In future appointments to the Sheriff Clerkship the persons appointed to possess qualifications as (a) existing Sheriff Clerks, or (b) qualified law agents, or (c) members of Sheriff Clerk's staff at date of commencement. These suggestions relate to the Sheriff Clerkships. Then with respect to the staff my suggestions are these: (1) All existing members of staff, whether deputies or clerks, to be put on a basis corresponding to Civil Service (or as nearly as the circumstances will permit) for salary, increment, and pension; with exceptions in the case of part time, very junior,

casual, and small appointments. (2) In giving salaries, the Treasury to take into consideration income derived from other offices which the depute or clerk may be permitted to hold. (3) Future appointments to post with salary exceeding, say, 250*l.* per annum, to be given only to (a) members of the staff placed on the scheme at its commencement, or to (b) members of the staff not on the scheme at its commencement who have subsequently qualified as law agents, or to (c) qualified law agents; but no such appointment to be made from outside unless a suitable appointment cannot be made by promotion, and the approval of the Lord Advocate or Secretary for Scotland has been obtained. (4) For other posts, *i.e.*, under 250*l.*, a test of fitness by open or limited competition to be established. (5) Apprenticeship with Sheriff Clerk, beginning after the commencement of the scheme, to be equivalent to apprenticeship with a law agent, for the purpose of enabling the apprentice to go up for the Law Agents' examination. I may say that we attach considerable importance to that point.

57,158. On that point, what is the position at present; if a candidate desires to go up for the Law Agents' examination, is it necessary for him to have served an apprenticeship with a law agent?—Yes, a law agent who is not a Sheriff Clerk; apprenticeship in a Sheriff Clerk's office, even though the head of the office is a qualified law agent himself, does not qualify for admission to the Law Agents' examination.

57,159. You suggest that apprenticeship in a Sheriff Clerk's office should qualify whether the Sheriff Clerk is a law agent or not?—Probably it would be an objection in the case where the Sheriff Clerk is not a law agent. The law agents themselves might have an objection to that, but speaking generally, I think myself that apprenticeship in a Sheriff Clerk's office ought to be sufficient.

57,160. By whom are the regulations for admission as law agents made?—They are made by the Court of Session under the Law Agents Act; but that point is dealt with by the statute. It was formerly the rule that apprenticeship with a Sheriff Clerk was a qualification for admission to the examinations, but that was departed from a number of years ago.

57,161. Will you now continue your summary?—(6) Promotion to prevail throughout the service and to be regulated by a committee of Sheriff Clerks presided over by the King's Remembrancer. (7) On the scheme coming into operation the Sheriff Clerk to be relieved of his present personal liability for the acts, intrusions, and neglects of his staff. (8) Questions of discipline and control to be determined by the Sheriff Clerk in the first instance, and where necessary by the committee on promotion; the ultimate authority in the case of the higher posts being the Lord Advocate (or Secretary for Scotland). (9) The size and classification of the staff as a whole, and where necessary of the staff of each office, to be regulated by the Treasury.

57,162. On point (7) you mention the personal liability of the Sheriff Clerk for the acts intrusions and neglects of his staff. Has that responsibility often been brought into operation in practice?—Not often, but there have been cases.

57,163. Have you yourself ever had to pay for the acts of your subordinates?—Yes, there was such a case in my personal experience.

57,164. Was that a case of defalcation or neglect?—It was a case of neglect.

57,165. Was an action brought?—No, it was threatened.

57,166. Compensation was paid without legal proceedings?—Yes.

57,167. Is that the only case in your experience?—In my personal experience that is the only case. Other Sheriff Clerks have had to make good the defalcations of their subordinates in several instances. The thing has happened. It is not a frequent occurrence, but these instances only prove that the Sheriff Clerk is responsible and that this point must be dealt with. Lord Salvesen's Committee expressed the opinion that the responsibility of the Sheriff Clerk did exist both for intrusions and for neglects.

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57,168. Some doubt has been raised on the latter point, has it not?—The deutes, I believe, have contended that the Sheriff Clerk is not responsible for neglects, but our opinion is that the Sheriff Clerks are responsible, and that opinion was expressed, I think I am right in saying, on both points by Lord Salvesen's Committee. They said: "It is here necessary to state, in view of the recommendations we have made subsequently, that in our opinion Sheriff Clerks are at present subject to a personal liability for the acts and intromissions of their deutes. We are aware that doubts have been expressed as to the existence, or, at all events, as to the extent, of this liability, but we see no reason for limiting in any way the opinion we have expressed."

57,169. Do you attach importance to that personal responsibility?—Yes, we do attach importance to that point. We feel that if we are not any longer to be allowed to appoint and dismiss the staff, it would not be fair for us to remain under such a responsibility for men over whom we do not have control.

57,170. Do you take any fidelity guarantee or insurance in any form against the acts of your subordinates?—No, I do not, and I do not think it is common. I have not heard of it being done. In any case, it is not a satisfactory method. I think it would be quite fair to do, as was done in the case of the Register House, when the Lord Clerk Register was relieved on the staff being placed on the establishment.

57,171. If the system were changed in the manner you suggest, if the Sheriff Clerk were relieved of his personal responsibility, and also were no longer responsible for appointments and promotions, do you consider that the disciplinary control of his staff would be weakened in any serious way?—I have suggested that questions of discipline should be under the control of the Sheriff Clerk in the first instance, and of that Committee upon Appointments and Promotions in the second place.

57,172. That is to say, there would be an appeal to the Committee?—Yes, and they would deal with the more serious cases, and, possibly, it might be desirable to have an ultimate authority in the person of the Lord Advocate in the case of the higher and better-paid posts. With such a system in operation I do not think there would be any real danger of a lack of discipline.

57,173. From the statement to which we referred in your evidence before Lord Salvesen's Committee cases of dismissal appear to be extremely rare?—Very.

57,174. It would seem, then, that an alteration in the system of dismissal would not materially modify the Sheriff Clerk's control over his staff in practice?—Not if it were supported by the safeguards I have suggested. My evidence before Lord Salvesen's Committee was directed rather to the proposals made by the deutes that they should be placed upon an independent footing—dealt with specially as deutes and not merely as members of a complete staff. We felt at that time that there was a real danger of a lack of discipline following upon such an arrangement.

57,175. Under the system you suggest you do not apprehend any such danger?—No.

57,176. The result of your system would be that you would have deutes in charge in a considerably greater number of places than at present?—Yes, that would be one result.

57,177. And the supervision of the Sheriff Clerks would presumably be less constant and direct, in that they would have a larger number of places to supervise?—Yes.

57,178. You do not anticipate any drawbacks arising from that system?—No; the 15 Sheriff Clerks would be all whole-time men, and in a position to exercise proper supervision.

57,179. You think that the deutes would be perfectly capable of exercising the degree of independent authority which they would have under the changed system?—Yes. May I add, with respect to those Sheriff Clerks who hold office at present, that we feel that their interests should be safeguarded in any re-arrangement. Persons appointed have been solicitors

of experience in their profession, and therefore at or beyond middle life, and in a number of cases they have been required, as a condition of appointment, to give up private practice. We, therefore, suggest that in the case of persons so appointed and presently holding office, provision should be made that such a Sheriff Clerk should not be required to retire at a given age, but should be given the option to retire on the same terms as to pension as are provided in the case of Sheriffs Substitute. That would be merely a temporary provision dealing with the Sheriff Clerks at present in office. Correspondingly, we think that interference should not be made with the Sheriff Clerk's right to carry on private practice or to hold other appointments where such a right exists at present, whatever may be done with respect to future appointments.

57,180. What are the terms of the section of the Sheriff Courts (Scotland) Act, 1907, to which you refer?—It is section 20 which provides: "It shall be lawful for the Treasury, upon the recommendation of the Secretary for Scotland, to grant an annuity payable in like manner as the salaries to any person who has held, now holds, or may hereafter hold the office of Sheriff or salaried Sheriff Substitute whose period of service (notwithstanding that such service may not have been continuous and may have been in different sheriffdoms and may have been partly as Sheriff Substitute and partly as Sheriff) has been not less than 10 years."

57,181. The section goes on to provide what the amount of the pension should be?—Yes, varying according to the length of service.

57,182. You suggest that similar terms should be conceded to the existing Sheriff Clerks if the changes you suggest were brought into effect?—Yes, especially as quite a number of them have been appointed pretty late in life and have not made a career of the Sheriff Clerkship.

57,183. In the case of the Sheriffs Substitute, to whom that section applies, were any of them part-time officers?—No.

57,184. There might be some difficulty in applying a similar provision to Sheriff Clerks who have not given their whole time to their office?—That might be. My suggestion is that it should be merely optional—that a Sheriff Clerk should not be compelled to retire after having given up his private practice in order to take this appointment which he understood was going to be for life; he should not be compelled to retire unless he wanted to do so, and upon suitable terms as to pension.

57,185. (*Lord Dundas.*) I have very few questions with which to trouble you. I understand that you think the Sheriff Clerk's staff might with advantage be put on some sort of Civil Service basis?—Yes.

57,186. On that, not in any hostile spirit, you will understand, but for information—I will put one or two questions to you. I understand you think there should be, or might be, an entrance examination—something on the footing of the Law Agents' examination?—Yes.

57,187. When a young man had passed that examination, would he be eligible for employment in other branches of the Civil Service, or only in the fortunes of the Sheriff Clerk's staff?—In the Sheriff Clerk's staff or in the legal profession generally.

57,188. You mean because he was a law agent?—Yes.

57,189. But as regards his whole service, it is only in this particular branch that you are speaking of?—I think there are certain posts in the Civil Service in Edinburgh which are only open to qualified law agents, but the number is not large.

57,190. Quite so, anything that a law agent may get he would be qualified for?—Yes.

57,191. But you do not suggest that because he has passed this special entrance test he would be eligible for some other branch of the Civil Service than this particular Sheriff Clerk's staff branch?—No.

57,192. Then in that branch what would his aspirations and expectations of promotion be if this new scheme were put into operation?—They might range over the service as a whole, but they would be confined to that service.

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57,193. But in that service what could he legitimately or naturally expect?—In that service one entering might expect to reach one of the better-paid posts as depute and possibly to be appointed as Sheriff Clerk.

57,194. You have told us that preferably you think the Sheriff Clerk himself should be a solicitor?—Yes.

57,195. But apart from that a man might even get to that post?—Yes.

57,196. Is there any legal obstacle at present to a young man on the Sheriff Clerk's staff being promoted from one particular place to another, from one Sheriff Clerk's staff to another Sheriff Clerk's staff?—No, there is no legal obstacle.

57,197. Could nothing be done in the direction of stimulating such a practice short of creating a Civil Service basis underlying it?—The difficulty is that each Sheriff Clerk appoints the members of his own staff, and you cannot get over that unless you make it a single staff and a single system.

57,198. Supposing it were made a single staff, is the promotion to be automatic, or how is it to be regulated?—I suggest that it should be regulated by the Committee.

57,199. Then if a young man went into the Sheriff Clerk's staff at Forfar, would it be the duty of the Committee to keep a fatherly eye on him, and in due time have him put to Edinburgh or Glasgow?—Yes.

57,200. I am asking, as I say, purely for information. Would this Committee be permanently and continuously engaged in considering the proper appointments for this staff?—You are dealing with a staff which is not large in itself—220 or so—and not many vacancies will occur in the course of a year, so that it does not appear to present much difficulty.

57,201. Upon the occurrence of any vacancy your suggestion is, that this Committee might fill it up by promotion?—Yes.

57,202. Your suggestion of a Civil Service basis would also, I gather, import better conditions as regards pension?—Yes.

57,203. And probably better conditions as regards salary?—Yes.

57,204. Those objects, I suppose, might be effected if the Treasury so willed it, without putting the staff on a Civil Service basis?—Yes.

57,205. What I rather wanted to get from you was, apart from these naturally coveted advantages, what advantages the young men would get over what they have now got. You have told me that you think they would be more freely promoted by the Committee from one place to another than they are at present. Is there anything else that occurs to you that would be a new feature of advantage to them?—No, nothing else. It is really a question of promotion, increment, salary, and pension.

57,206. I think I understand that. Your own commission, you say, you think was signed by the Secretary for Scotland?—Yes.

57,207. But I suppose there is no doubt that the appointments of Sheriff Clerks are really made by the Lord Advocate?—There is no doubt about that.

57,208. And so long as matters are not put on a Civil Service basis, I understand you have nothing to say against the method of appointment?—No.

57,209. A question was put to you about political appointments. I do not propose to discuss the general question at this moment, but I will ask you this one question: Has it ever occurred in your experience that a solicitor of no particular party views, and of outstanding excellence, who wanted to be a Sheriff Clerk, has been passed over in favour of a prominent party politician who was a solicitor and wanted the post?—As a matter of fact, the men who aspire to such posts are usually the men who have been associated in some way or other with politics in the county. For that reason, probably, quite a number of suitable and eligible men do not apply, and do not think of the posts at all.

57,210. Such a case as I put to you has not occurred in your experience?—It may have occurred, but it is not within my own personal knowledge.

57,211. (*Mr. Boutwood.*) To go back to Lord Dundas's last question, I suppose, as a matter of fact, you would not know, except quite exceptionally, if such a

case had occurred, because you do not know what names go before the Lord Advocate?—No, I do not.

57,212. (*Mr. Graham Wallas.*) You told Lord Salvesen's Committee that, at that time, only 60 out of the 150 clerks to Sheriff Clerks, who were not deputes, received salaries of over 60*l.* a year?—Yes.

57,213. Is that roughly true now, do you think?—I do not think there has been any substantial improvement since that time.

57,214. The majority of those people are doing whole-time work?—Many of them.

57,215. Those salaries are disastrously low?—Yes, they are very low.

57,216. With regard to any of those people—the better-paid deputes, say—does the Treasury lay down any regulation in assigning you a sum of money for their salaries, that they shall give their full time to the work?—No.

57,217. Then the question whether the clerk who receives a portion of the Treasury grant for office expenses gives his full time to the work represented by that grant is a matter purely for the Sheriff Clerk to consider?—Yes.

57,218. If, in fact, a particular Sheriff Clerk received a considerable quantity of money out of the Treasury grant and gave the whole of his time to his private work, it would be nobody's business to complain?—If the business is well done the money is earned, and I do not think anybody would complain, or would have any right to complain.

57,219. A certain sum of money is allotted to you by the Treasury, to be used in providing the salaries of clerks; you have to account to the Treasury for that by sending in the clerk's receipt for the money?—Yes.

57,220. But there is no regulation requiring that any service for the Government should be done for that money by that particular person?—Oh, yes; one is bound to provide an adequate staff, in so far as the allowance assigned will permit.

57,221. Services have to be done by you or your officials; but there is no regulation that any service for the Government shall be done by any particular official?—Not by any particular official.

57,222. And, in fact, I suppose, in almost every case, the gentlemen who sign those receipts do a considerable amount of work in the private service of the Sheriff Clerk?—No, not in the private service of the Sheriff Clerk in cases where the Sheriff Clerk is not in private practice.

57,223. I am assuming the case where the Sheriff Clerk has a private practice, or other posts, or other means of making money?—In such cases, which, however, are not the majority, the person appointed as depute or clerk on the establishment, may also be a clerk in the Sheriff Clerk's personal office as law agent, and discharge duties there; but that occurs in the smaller counties, and is not a typical case by any means.

57,224. You tell us in your précis that it very often happens that the senior depute also holds the office of Auditor of Court which enables him to secure private audits as well. Would you mind expanding that last phrase?—The work that the auditor does as Auditor of Court is the auditing of accounts relating to actions.

57,225. What we call in England "taxing"?—Yes, that is one thing; but the fact that a man is auditor of the Sheriff Court brings him audit work of a different class, namely, the audit of a law agent's business account for work which need not be judicial work. I mean ordinary law agency work. Such accounts are very frequently referred to the Sheriff Court auditor for the purpose of audit or taxation.

57,226. Then a solicitor, whose accounts will be audited later on by a depute, or, in some cases, by the Sheriff Clerk himself, who holds this post of auditor, may, if he likes, bring those accounts beforehand to the Sheriff Clerk or his depute and have them audited for him as a matter of private business arrangement, and then, having paid him his fee for that, may bring them to him later on to be audited as part of the business of the Court?—No, that does not happen; the two things are quite different.

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57,227. Part of the ordinary audit in a lawyer's business is preparing accounts for what we call "taxation"?—Do you say part of the auditor's business is to prepare accounts for taxation?

57,228. No; part of the business in a lawyer's office is to prepare the accounts in such a way that they should pass the taxing master?—Yes.

57,229. You say that the man who is what we call "Taxing Master," and you call "Auditor of Court," also acts as auditor in the private business of a solicitor, and I ask you whether it ever happens that when he does so he deals with the same accounts as will afterwards be presented to him for the official audit?—No.

57,230. You cannot conceive that possible?—No, I do not think that would happen at all.

(Mr. Coward.) It would not be possible here.

57,231. (Mr. Graham Wallas.) What is the exact work which a man who is auditing the private accounts of a lawyer does?—The private accounts are the accounts of the law agent against his client for work other than judicial work—for other than taxed costs in a court process.

57,232. (Mr. Coward.) They might be trust accounts?—They might be trust accounts, or an ordinary account for any kind of business that a law agent had done for a client.

57,233. (Sir George Paul.) Just an ordinary business account presented by an agent to his client?—Just an ordinary business account.

57,234. Extra-judicial?—Yes.

57,235. But the auditor would not take up the audit, or the taxation, unless with the consent of the client and solicitor?—The account would be referred to the auditor by the client and his solicitor.

57,236. (Mr. Graham Wallas.) You say the fact that he holds the office of Auditor of Court enables him to secure private audits as well. What is the exact meaning of the word "enables"?—This extra-judicial business comes to him because he holds the appointment of Auditor of Court.

57,237. (Sir George Paul.) And because he is supposed to be a person of experience, in whom the parties have confidence; but they might quite as well go to an accountant or another solicitor?—Yes.

57,238. But they know this Auditor of Court has more experience in taxing accounts than an outsider, and they go to him?—Yes.

57,239. (Mr. Graham Wallas.) Do you find that a wholly satisfactory arrangement?—Yes.

57,240. You told us that the Sheriff Clerks who have been appointed of late give a good deal of personal attention to their business, and that if it be true that certain Sheriff Clerks only sign a document once in every three months, being busy lawyers, and having the work done in their office, that probably refers to appointments under earlier and now abandoned conditions?—And to the part-time appointments.

57,241. Supposing in fact a Sheriff Clerk does leave the whole of the work in his office to his clerks and deposes and does nothing but a few formal acts himself, who is to know that?—The Sheriff or the Sheriff Substitute. Of course it is a very common thing for subordinates in an office to think that their superiors do nothing.

57,242. I know; but has the Sheriff or the Sheriff Substitute any right to complain if the work is done, but not done by the Sheriff Clerk himself?—I think the Sheriff would, no doubt, be satisfied if the work were satisfactorily done, no matter who did it, unless the matter appeared to the Sheriff to be one calling for attention in the public interest, in which case, no doubt, the Sheriff would act.

57,243. The question whether in fact the Sheriff Clerk does any work at all or whether it is all done by his clerks and subordinates is a matter for his private conscience?—Yes. He is directed by his commission to do the work, and if he does not do the work, then he is not complying with the terms of his appointment.

57,244. But there is no sanction for that?—You mean no one is placed in authority over a Sheriff Clerk to tell him what to do or that he is wrong if he does not do it?

57,245. Yes?—Probably not. The Sheriff Clerk is not the servant of the Court, but is an independent public officer. He would be under supervision and subject to correction and direction by the Lord Advocate or by the Secretary for Scotland, I imagine.

57,246. But there is no machinery by which the Lord Advocate can find out whether the Sheriff Clerk is doing any work himself or leaving it to his officials?—He has all the usual channels of information.

57,247. The newspapers?—Not always the most reliable sources.

57,248. You tell us you think it would be rather a good thing if Sheriff Clerks gave up their outside appointments, provided that their salaries were made sufficient. Would you mind expanding that? What do you think would be a sufficient salary for a Sheriff Clerk to get for his full time?—I put it in this way: some of the deposes have salaries up to 500*l.*, and I do not think that a Principal Sheriff Clerk ought to have less.

57,249. Your own salary is 750*l.*?—Yes.

57,250. Do you think that sufficient for a full-time post?—I have not asked for any increase for some time.

57,251. Had you a larger sum than that in your mind when you said that a Sheriff Clerk if he is asked to give his full time ought to receive sufficient and *ex hypothesi* an increased salary?—That, I think, would depend on the importance of the work. For example, you could not ask the Sheriff Clerk of Lanarkshire to serve for 750*l.*

57,252. (Chairman.) Is it the case that only one Sheriff Clerk has a higher salary than 750*l.*?—Yes, that is the case of Lanarkshire.

57,253. (Mr. Graham Wallas.) You told us that the Sheriff Clerk is now appointed by the Secretary for Scotland, but it is well understood that he is chosen on the responsibility of the Lord Advocate?—Yes.

57,254. Have you ever heard it discussed or considered whether that does involve any responsibility on the Secretary for Scotland—whether, for instance, the Secretary for Scotland could refuse the nomination of the Lord Advocate?—I am not in a position to speak about that. I do not know.

57,255. You told us very kindly and frankly that your own appointment was due to your political claims?—Yes.

57,256. Would you mind telling us—as many of us are active politicians—what those political claims were, roughly?—At the time of my appointment I was, and had been for a number of years before that, the Secretary of the Dundee Conservative Association, and had acted as agent in several contests in Dundee.

57,257. The recognition of political claims by appointments of that kind is not confined in Scotland to Sheriff Clerks, but is general throughout all the minor appointments?—It is not confined to minor appointments.

57,258. Then throughout the whole legal service recognition of services of that kind by appointment to offices is general, is it not?—Yes.

57,259. You say you do not think it hurts the legal service, because there are plenty of good men who are also politicians (like yourself and myself), and who do the work, in fact, well?—Yes.

57,260. Have you ever thought about it on the other side—from the point of view of whether it is good for politics. In America, for instance, where a corresponding system prevails, it is argued that it is not very good for the political life of the country that it should be capable of being said that men are in politics, as the Americans say, not purely for their health. Have you ever thought of that side?—Yes; but the conditions in Scotland are entirely different from those that prevail in the United States. I think you must judge of a system by its results, and I would apply that test to the system in Scotland.

57,261. But there is a certain danger surely where that system prevails so widely of both unfounded and well-founded suspicion of political motives?—Possibly; but you must have some system, and this has worked pretty well in the past. Anyhow, it is rather a wider

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question than that with which I came prepared to deal to-day.

57,262. You know the recommendations of Lord Salvesen's Committee, and of Mr. Watt and Mr. Haldane and others on that Committee?—Yes.

57,263. Can you, speaking from memory, give, with regard to the Sheriff Courts and the Sheriff Clerks, any recommendation of that Committee which has been carried out?—I am not aware that any of their recommendations has been carried out so far.

57,264. Have you ever heard any reason assigned for that?—It has been stated in Parliament from time to time that the matter was under consideration, and that a scheme would be prepared shortly, but it has not yet come.

57,265. But have you ever heard any reason assigned for the fact that none of those numerous and very important recommendations have been carried out?—No.

57,266. Now a question on a technical point about the Sheriff Substitute. May a Sheriff appoint Substitutes so as to cover, in fact, all his work, if he so desires?—No. The Sheriff does not appoint any of the salaried Sheriffs' Substitutes.

57,267. Then may the salaried Sheriff Substitute cover all the work of a Sheriff?—No. The Sheriff in his judicial functions is an appeal judge who exercises appellate jurisdiction in the sheriffdom.

57,268. (*Mr. Clynes.*) Do you think there is any general desire to put an end to political influence?—Do you mean in regard to appointments to the Sheriff Clerkships?

57,269. Yes?—I have not heard of any general desire to that effect.

57,270. You have admitted that there have been considerable political influences and many political considerations operating in respect of these appointments, and you have suggested an alternative method of appointment. I am asking if you know of any general desire to put an end to that political influence?—I have suggested that a different method of selection might be possible under an entirely different system which would deal with the whole staff from top to bottom. There is no doubt a desire within the staff itself for such a change, but with respect to the present appointments to Sheriff Clerkships, I have not heard any very definitely expressed wish. You mean the expression of public opinion, I suppose?

57,271. Not so much public opinion, but opinion in the legal circles from which these appointments are made?—No. I think it has come to be quite a recognised and understood thing, and people are reasonably content with it as it exists.

57,272. Do you think then that any stern desire or any stern attempt to repress the use of political influence would be resented by those concerned?—No.

57,273. (*Sir George Paul.*) I have nothing to ask you on the general question, but there are one or two questions upon a very subordinate matter which you spoke of in your evidence; that is, as regards registration for preservation in the Sheriff Record books. Your county registers, I suppose, are kept in Forfar?—Yes.

57,274. Your headquarters are in Dundee?—Yes.

57,275. For the purpose of registration for preservation, the writs given in for registration are kept in the Register House in the county, because it is supposed they are in safer custody there than with the owner or the owner's solicitors?—Yes.

57,276. What accommodation have you for keeping these writs that are deposited with you and the registers? Have you fireproof safes, or what?—At Forfar the accommodation is very good and sufficient. There is no difficulty about the custody and preservation of these writs. Several large strong rooms have been provided, which are fireproof.

57,277. That may be so as regards a large and important county like Forfar, but in some of the smaller counties outside they are kept in a very slovenly way?—I believe that is so.

57,278. I know the Deputy Clerk Register has very strong views on the subject, and he thinks those writs that are kept in that slovenly way in those small places should be all brought up to Edinburgh and kept safely?—I believe the sheriffs have looked into

this question within the last two years with a view to making recommendations to the Court-house Commissioners where such accommodation was not sufficient. I think the matter was taken up and dealt with by the sheriffs within the period I have mentioned.

57,279. In order to get improved accommodation in counties rather than that the documents should be sent to the general Register House in Edinburgh?—Yes; feeling varies in different localities. Sometimes these local registers are pretty largely used; in other counties their use has been almost discontinued.

57,280. I suppose, in point of fact, most of the deeds and wills recorded for preservation are sent to Edinburgh?—Yes, the great majority of them; but there are places like Aberdeen, for example, where the recording of deeds within the county is quite extensive locally, and law agents there would, I feel pretty sure, resent any movement for a change. They prefer the local control of such deeds for sentimental and practical reasons.

57,281. (*Sir John Kempe.*) As regards the registration of deeds, is any general index kept of all the documents at the different registries in the different counties and at the central registry?—There is no central jurisdiction; each county stands by itself in that matter.

57,282. Then, when a search has to be made, you have to find out as best you can where the deeds are kept. There are no means of finding out in what county your deeds have been registered?—Yes; only deeds relating to the particular county would be registered in a county register.

57,283. Then, if you do not know in what county your deed is registered, you have to search throughout all the counties; there is no general index to show you where to go to?—You would know that if a deed related to a particular county it would be registered within that county in the register of that county. It would not be registered in another county.

57,284. (*Sir George Paul.*) The will of a person domiciled in Aberdeenshire or Forfarshire would be recorded in the register of Aberdeenshire or Forfarshire?—Yes.

57,285. And nowhere else?—Nowhere else, except in Edinburgh.

57,286. (*Sir John Kempe.*) As to the salaries which you suggest for the clerks, I understood you to say that the salaries at present given are not very high, partly because there are certain outside earnings?—That is not the only reason; but that is, or may be, one reason.

57,287. What other reason is there?—The other reason is that a Sheriff Clerk's allowance is limited by the Treasury, and he cannot do better than the allowance enables him to do.

57,288. Then you might hope to get a better class of clerks if you had a rather better scale of salaries?—Yes, I think that would be the result of the whole scheme I have suggested.

57,289. But you are fairly satisfied at present with the clerks you get?—Yes, they are quite a good class.

57,290. You do not think it absolutely necessary to pay higher salaries, as you get a very fair class of clerks at present?—Yes. They themselves think they ought to receive better treatment, and I agree with their view. The fact that they are good servants of the public at a small salary does not debar them from entertaining expectations of an improved position.

57,291. Quite so; but your suggestion would be that their pay should be based upon the present pay plus the earnings, or something of that kind. A scale should be made which would be based so as to cover earnings and pay and give to all the clerks—those who get earnings outside, and those who do not—the benefit of the new scale?—The special circumstances with regard to the holding of offices would require to be taken into consideration on the fixing of a salary and the determination of an appointment at the commencement of the scheme. There is no other way of dealing with it; you must take each case by itself if you are going to start a system and fix a salary for that post.

57,292. But you propose, as I understood, a general class of clerks and deputies with general scales of pay for them to cover all established positions?—Yes.

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[Continued.]

57,293. And you base that upon something. Have you any idea in your mind what sort of scales of pay you would give?—No, I have not considered that. You would have to consider the existing members of the staff. You might take them at the salaries they at present receive, and provide for reasonable increment over a certain period, and fix a maximum salary in each case. You might find it necessary to divide the staff into two, three, or four classes with different minima or maxima. That would be a matter for arrangement.

57,294. But you said, I think, that all the members of your staff, deputed and clerks alike, are available for any work, and they all take their share of the work together. Could you separate the clerks and put them into classes according to the work they do in each case? Could you classify the work?—Not more than it is classified at present, but that does not prevent you from classifying the members of the staff with respect to the minima and maxima of salaries.

57,295. You pay them not according to the work they do but according to the length of their service, I suppose?—You would have to take both into consideration.

57,296. What do you do now—pay them according to length of service or according to the work they do?—Very often when a man is appointed to a post he receives less salary than he ought to get, but he will receive additions as other vacancies occur. He will receive additions to his salary whenever a portion of the allowance is released by the occurrence of a vacancy. That is all one can do just now.

57,297. Then the result of the suggested alteration would be a considerable increase of expense?—I think so. I do not think such a scheme as this can be brought into effect without increasing the charge on the Treasury.

57,298. Could any part of the earnings of the clerks who earn something outside be handed over to the Exchequer?—If the Treasury took over the fees for audit work, for example, they would have that additional source of revenue; but they would have to provide an addition to the salary of the man who does the work of audit. I think it must be faced that such a scheme as this will entail considerable additional expense on the Treasury.

57,299. There is nothing to be diverted to the Exchequer sufficient to pay the extra expense. You could not get out of their earnings sufficient to meet it?—You could only do that by increasing the fees payable in the Sheriff Courts, and, of course, you would save something by reducing the number of Sheriff Clerks from 33 at present to 15 in the future.

57,300. You said that in the Scottish offices, unlike the English offices, all branches of the law, almost, are dealt with in the Sheriff Clerk's Office—Probate, Chancery, and all the different branches of English law are dealt with in one office?—Yes. The jurisdiction of the Sheriff Court is such as to include a number of such branches as you name.

57,301. I suppose you are not familiar with the English legal departments?—No, I am not.

57,302. There it is impossible for any one clerk to master the different branches of the law which have to be dealt with in his department. In Scotland is a man assigned to one particular branch—on one day to Probate, another day to Chancery, and another day to something else?—Yes; in practice, one clerk does a particular branch of the office work, but in offices like ours all the members of the staff in a few years become familiar with nearly all the branches.

57,303. You find that they can do that?—Of course you get specialists, for example, in the commissary branch and in the criminal branch, especially in the larger counties—men who have been years in those posts, and whom it may be desirable to retain in them on account of their special experience rather than

transfer them to another branch; but, speaking generally, the senior members of the staff become familiar with all the work of the office.

57,304. To enable a man to do that you think he must have had experience of the law before he comes into your department?—It is not so much to enable a man to do that, but for more general reasons I suggest that they should be qualified law agents.

57,305. I see amongst the Sheriffs Substitute there is one post called the "Sheriff of Chancery," which is among the Consolidated Fund salaries. What is a Sheriff of Chancery?—I am afraid any statement from me on that subject would not be helpful.

57,306. He has not a county?—No, he has special duties.

57,307. Has he a staff?—Yes.

57,308. Has he a separate office in Edinburgh?—Yes, an office in Edinburgh, but I am not familiar with the working of that office.

57,309. You do not know what the Sheriff of Chancery has to do different from other sheriffs?—I am not prepared to say. No doubt you will get evidence upon that from some other source.

57,310. (*Mr. Matheson.*) Mr. Shipley asked me to ask you one question. Is your business in Dundee done in a public office or a private one?—In a public office.

57,311. An office provided by the Government?—An office provided by the Court-house Commissioners for the county.

57,312. Then you do not have to pay rent for it?—No; the Court-house buildings are erected out of funds provided partly from county sources and partly by the Treasury.

57,313. Is that so in the case of most of the Sheriff Courts?—That is so in the case of all the Sheriff Courts.

57,314. Do you consider your office is satisfactory?—Yes.

57,315. (*Mr. Graham Wallas.*) There is no restriction on the question whether in those buildings the business done is private business or public business?—The building is provided for a variety of purposes. The Courts are there; also the Sheriff Clerk's Office and the Procurator Fiscal's Office; some of the County Offices may be there also—the County Clerk's Office, or the County Treasurer's Office. As a rule, when the county erect such a building, they provide accommodation for a number of services.

57,316. But there is no real regulation or understanding that a Sheriff Clerk shall not do his private business—he and his clerks—in that office?—That would be a matter for arrangement between him and the Court-house Commissioners.

57,317. (*Chairman.*) You said that you considered the present salaries of the clerks in the Sheriff Court office to be too low?—Yes.

57,318. Can you say how those salaries compare with the salaries of similar clerks in the private offices of law agents?—Compared with lawyers' clerks in the same town there is probably not much difference. I do not say that lawyers' clerks are well paid, though.

57,319. You are not prepared to say that the Sheriff Court clerks are worse paid than lawyers' clerks private service?—No. I think it probably happens in the Sheriff Clerk's office that a man will stay for a long time at a smaller salary than he would receive if he were in a lawyer's office, in the hope that he may be ultimately appointed depute at a higher salary.

57,320. As depute he would get a higher salary than anything he might expect to rise to in a law agent's office?—He has a salary which may not be higher than the post of cashier or head clerk in a lawyer's office, but it is a public appointment, and the man has a certain position in the locality which he would not have as a mere clerk.

MR. HENRY HILTON BROWN (Procurator Fiscal of Midlothian), called and examined.

57,321. (*Chairman.*) You are Procurator Fiscal of Midlothian?—I am.

57,322. How long have you held that office?—Since 1912.

57,323. Had you been Procurator Fiscal in other places before that?—Yes, I had been Procurator Fiscal of Elginshire and of the eastern division of Fifeshire.

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[Continued.]

57,324. How long in all?—Altogether, Procurator Fiscal for 22 years.

57,325. Are you also Secretary of the Association of Procurators Fiscal in Scotland?—Yes, also since 1912.

57,326. Does that association include all the Procurators Fiscal?—I think so, with one exception.

57,327. May we take your evidence as representing the views of the association?—I know their views so thoroughly that I think you may take it that I shall state them, but I have no authority to represent them.

57,328. First of all, what are the duties of the Procurator Fiscal?—I think the shortest definition is that he is within his district the chief executive officer in matters criminal of the Lord Advocate, the King's and Lord Treasurer's Remembrancer, and the Sheriff. It is a very complex office which he holds. It has been evolved out of a curious historical process; and by a system of adaptation, and by applying to the present purpose what was perhaps designed for a different purpose, the office has arrived at its present position. It is exceedingly complicated. Perhaps I might just tabulate the duties: First, there is the investigation and preparation of all criminal cases arising within his district which are competent for trial before the High Court of Justiciary or the Sheriff Court; that is to say, he examines the witnesses, takes down their written statements, collects all productions, and obtains medical and other reports, and so on; and submits the whole for consideration by the Crown Counsel where the case requires that.

57,329. Does that include all criminal cases except those minor cases which come before Burgh Courts or Justices of the Peace?—All cases which are to be tried either in the High Court of Justiciary or in the Sheriff Court—everything except the Justices of the Peace and the Burgh Magistrates. He has the investigation of all those cases; and then, secondly, he has the prosecution of such of these cases as are tried before the Sheriff Court either on indictment or summary complaint. Perhaps I should say that when I say criminal cases, I use the word as including the *quasi* criminal, that is to say all that immense mass of statutory prosecutions arising under various acts of Parliament.

57,330. In the case of prosecutions in the High Court of Justiciary, does he hand over the case to the Lord Advocate?—The Lord Advocate and his deputies prosecute all cases before the High Court of Justiciary, but the Procurator Fiscal prosecutes all cases either on indictment or on summary complaint in the Sheriff Court. The third point is the investigation of sudden, violent, or suspicious deaths, accidents, suicides, and so forth—in fact to a great extent the duties which are discharged by coroners in England. Then in those cases where a public inquiry is held under the recent statutes dealing with what are called industrial accidents, he also conducts the public inquiry before a sheriff and a jury of seven, but that is only applicable to a limited number of accidents which occur in industrial employments.

57,331. The inquiries into sudden death are not, as a rule, public inquiries?—They are all confidential in practice, with the exception of those I have mentioned, and those cases which the Lord Advocate in his discretion orders to be tried by public inquiry. Fourthly, there is the collection on behalf of the Exchequer of fines, forfeitures, or penalties imposed in the Sheriff Court within his district. I may add that he also acts as agent for the King's and Lord Treasurer's Remembrancer in cases of treasure trove and in cases of estates which fall to the Crown as ultimate heir. Then, fifthly, he has the investigation within his district of fires, explosions, and similar occurrences, the removal of dangerous buildings, the committal of dangerous lunatics, the examination into applications for naturalisation, and many like matters.

57,332. Does the supervision of buildings apply everywhere?—Not unless he has a complaint in regard to a building being in a condition dangerous to the lieges. In the case of a building reported to him as being dangerous to the lieges, it would be his duty in the public interest to make inquiries and probably to take steps for the removal of the danger. Lastly, he has the investigation of complaints and other matters

upon which he is requested by the Lord Advocate to report, and that involves a very varied and wide class of work, in which a large and wise discretion must be exercised. The Lord Advocate receives numerous complaints from the lieges upon all sorts of matters, and these, arising within the district of the Procurator Fiscal, are sent to him for report to the Lord Advocate.

57,333. Will you give us one instance to explain the nature of those inquiries?—There is the very frequent complaint of a man that he has not received justice; it may be in a civil court or any sort of court, but he complains to the Lord Advocate that the matter has not been attended to by the proper tribunal. As a matter of course that comes to the Procurator Fiscal for inquiry into the facts to ascertain the truth of the matter, and then it is reported to the Lord Advocate, and his lordship deals with the matter as it may seem fit in the public interest.

57,334. Has a Procurator Fiscal also certain duties in relation to local bodies?—In a very large number of cases the Procurator Fiscal has to prosecute on behalf of local bodies under a large number of statutes.

57,335. Do you include those cases under the first head you have given—the investigation of all criminal cases?—Yes, and perhaps under the second heading the prosecution of such cases as are tried before the Sheriff Court.

57,336. How many Procurators Fiscal are there?—Scotland is divided into about 50 districts, and there is one Procurator Fiscal for each of these districts.

57,337. Then a county is often divided into more than one district?—The larger counties are so divided. The tendency has been for some time to endeavour, if possible, to consolidate, and perhaps that may be extended further than has yet been done.

57,338. How is the remuneration of a Procurator Fiscal fixed?—The salary of a Procurator Fiscal, on appointment, is always a matter of special consideration by the Exchequer. On each appointment the Exchequer fixes the salary after consideration of the duties of the office.

57,339. Is the salary often changed on a vacancy?—I think it is very frequently changed. Usually the Procurator Fiscal, who has retired or died, has been for some time in office, and may have had his salary increased from time to time, and therefore when a new man comes in, the Exchequer very probably thinks it is desirable to return to the original figure.

57,340. Does the fixed salary constitute the whole of his remuneration?—No, his remuneration is made up of several elements. The first is a fixed salary paid quarterly by the Exchequer; secondly, there is an allowance paid by the County Council in lieu of fees for investigations and proceedings which are made and conducted by the Procurator Fiscal, but which are not chargeable to the Exchequer. In addition to that he has the fees or allowances in lieu of fees for prosecutions undertaken by him on behalf of various public bodies but which are not chargeable to the Exchequer. Then he has fees for his concurrence in private prosecutions in which imprisonment without the option of a fine is competent. A private prosecution of that sort in Scotland is now almost unknown, and the fee, which was only half a crown, has become so seldom paid that that source of income is practically negligible.

57,341. Is the Procurator Fiscal's assent necessary in all prosecutions of that kind?—In all cases where imprisonment without the option of a fine is competent.

57,342. What is the object of that—to prevent vexatious prosecutions?—I fancy that is the object.

57,343. The Estimates for Law Charges and Courts of Law in Scotland contain a statement of the salaries of Procurators Fiscal; one column gives the salary and another column gives the total remuneration in a particular year in addition to the salaries voted. That column of extra remuneration includes, I suppose, the whole of the remuneration which you have mentioned, namely, the remuneration from the fixed allowance from the County Council, the fees for prosecutions for public bodies and the fees from private prosecutions?—That is so.

57,344. May we take it that the figures in the Estimates represent the whole of the remuneration of a

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[Continued.]

Procurator Fiscal?—Yes, I think so. It is made up from figures supplied by the Procurators Fiscal themselves, and should include everything which the Procurators Fiscal receive.

57,345. Does the fixed salary include anything besides the Procurator Fiscal's own remuneration?—Yes. With the exception of Edinburgh City and Glasgow, it includes the salaries of clerks and office expenses. In Edinburgh City and Glasgow an allowance is still paid separately to the Procurator Fiscal for clerks' salaries and expenses.

57,346. In your own case the salary entered in the Estimates is 1,500*l.* a year, and I understand out of that you have to provide for the expenses of your own office—the salaries of your deposes and clerks?—The salaries of deposes and clerks in my case are paid out of it. It is somewhat special in so far as the Stationery Office allows a certain amount of stationery for the office as well.

57,347. Have you to provide your own office?—No. Procurator Fiscal provides his own office, so far as I am aware.

57,348. How is the office provided?—It is always part of the county buildings. It is supplied, I understand, by the county in some form. I have never investigated what is the exact source of the provision. In every sheriff court house there is provided an office for the Procurator Fiscal and his clerks.

57,349. Then, substantially, the amount of the salaries of deposes and clerks has to be deducted from the salary of the Procurator Fiscal in order to arrive at his actual remuneration?—Yes, and stationery where it is not allowed. The position as regards stationery is now very complicated; some have one arrangement and some another. I have had a different arrangement in all the counties where I have been. In some counties, also, the Sheriff Clerk has to provide a clerk to the Procurator Fiscal to write precognitions. In other counties the allowance for that is included in the salary.

57,350. In your case, what is the staff which is paid out of your allowance?—Three. I have two deposes and a clerk, but I also get from the Sheriff Clerk the assistance of a clerk for precognitions.

57,351. What are the functions of your staff?—The deposes must be prepared to take my place in my necessary absence, and discharge exactly the same powers and duties as I have myself. The clerk is simply engaged in ordinary clerical work.

57,352. When you are there, do the deposes assist you in your work, or is it only in your absence that they perform your functions?—It is impossible, of course, in a county like Midlothian, for one person to conduct the precognitions, and also to attend to the Summary Courts, so that one of the deposes is very generally engaged in the Summary Courts with the ordinary cases. I take summary cases myself when they are of importance, and I take all jury cases on indictment, and most of the precognitions I see to myself.

57,353. From the figures you give us I see the salaries of your two deposes and clerk amount to 650*l.* a year in all?—That is so. I might explain that, as far as the Exchequer is concerned, the Exchequer simply pays me 1,500*l.* a year quarterly.

57,354. And leaves it entirely to you to fix the salaries of your assistants?—Yes, entirely. The Exchequer and I quite understand what is paid to the assistants, but that is not part of any arrangement made. They have no concern with that whatever, except that they pay me quarterly amounts.

57,355. What is your tenure of office?—The Procurator Fiscal is not removable from office except by the Secretary for Scotland for inability or misbehaviour upon a report by the Lord President of the Court of Session and the Lord Justice Clerk.

57,356. That is under section 23 of the Sheriff Courts (Scotland) Act, 1907?—Yes.

57,357. What is the tenure of your staff?—The deposes hold each a commission for one year from 1st January. A new commission is made out every year. That commission contains a clause that they

are removable at any time, either by the Lord Advocate or myself.

57,358. Do they give their whole time to their duties?—In my office they do.

57,359. Do they in most of the offices?—No, in very few of the Procurators Fiscal offices in Scotland are there full-time deposes. I do not believe that there are more than half a dozen full-time deposes in Scotland. The greater number of the Procurators Fiscal appoint as deposes some local solicitor who acts either as a personal friend or for the consideration of an honorarium; they are honorary deposes; but in the larger districts, such as Edinburgh and Glasgow and some other places, there are salaried deposes who devote their time to the work.

57,360. Do the Procurators Fiscal, speaking generally, give their whole time to their duties?—With the exception of a very, very few who are allowed to engage in private practice. It is a condition in all the modern commissions that the Procurator Fiscal shall devote his whole time to the duties of his office.

57,361. I see in some cases the salaries are very small?—In some of the smaller districts they are very small.

57,362. In the case of the Procurator Fiscal of Kinross the salary is only 65*l.* a year. That, of course, would not be a whole-time appointment?—I rather think the Procurator Fiscal is engaged in private practice in almost all the small places.

57,363. By whom are the Procurators Fiscal appointed?—Now entirely by the Lord Advocate. Perhaps, to understand exactly the office, a word as to its history would be necessary. The Procurator Fiscal was originally simply the law agent of the sheriff—an ordinary law agent appointed by the sheriff—and paid fees as between solicitor and client in the ordinary way. Then by degrees a connection between the Crown Office and the Procurators Fiscal was established, but for a long time in the same way the Procurator Fiscal was paid by fees and rendered accounts for fees like any other law agent to the Exchequer. Then about 1850 or 1851—the middle of the last century—the Exchequer adopted an arrangement by which Procurators Fiscal were to get fixed salaries, calculated upon the basis of an average of so many years' fees, subject to a deduction. Gradually, later on, they began to introduce this principle of restricting the Procurator Fiscal to his duties; but up to that time the Procurator Fiscal, like any other law agent, engaged in general practice freely. Then he was appointed by the Sheriff, held his office from the Sheriff, and the tenure of his office endured with the Sheriff. In 1877 he was given a permanent tenure of office, subject to good behaviour; but the appointment then was changed, and after that time it was vested in the Sheriff, with the approbation of the Secretary of State, and that continued until the last alteration was made, when, under the Sheriff Courts Act of 1907, the Lord Advocate was vested with the sole power of appointing the Procurators Fiscal. Every Procurator Fiscal was free to practise up till a matter of 35 years ago. Then for a time the Procurators Fiscal were allowed to engage in such offices of a public nature as the Sheriff might approve; the commissions contained a qualification to that extent. But in all commissions issued since the Act of 1907 the Procurator Fiscal has been bound to devote his whole time to the duties of his office. There are, however, still left a very few men who were appointed under the old system, and who still engage in private practice.

57,364. Is there any statutory qualification for appointment?—None.

57,365. Do you think there ought to be?—I think it would be a very wise thing to have a qualification. I think a Procurator Fiscal should invariably be a fully qualified law agent who has had a certain number of years' practice. I think it is very important that that should be so.

57,366. In practice have the persons appointed to be Procurators Fiscal had experience as law agents?—The greater number of them are fully qualified law agents, but in a few cases a Depute Procurator Fiscal, who has

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[Continued.]

had considerable experience, has been appointed, and in one or two cases, I believe, a Sheriff Clerk Depute has been appointed Procurator Fiscal.

57,367. You suggest that he should have, say, five years' standing as a qualified law agent as a necessary qualification for appointment?—I think it would be very desirable. In a Procurator Fiscal you require a man who has a broad knowledge of the Law of Scotland, not merely of criminal law, but of all forms of law. Crime is infinitely varied in its character, and in cases of fraud, for instance, or embezzlement or of bankruptcy frauds in particular, a man would find himself very helpless in investigating the charge if he did not know what were the ordinary rules and how business was conducted.

57,368. Would you make the qualification of law agent obligatory, even in cases where a depute was appointed to be a Procurator Fiscal?—That, of course, is a very difficult question. Personally, I may say that I think no Depute Procurator Fiscal should be appointed to be Procurator Fiscal unless he is a qualified law agent. Many of them are. Of course to make that rule would cut out those deputies who are not qualified law agents, but I have a difficulty in suggesting any alternative qualification which could take the place of the law agent's professional standing.

57,369. You would not consider it sufficient that a man should have served for a certain number of years as a depute?—That, of course, is what has been recognised as a sufficient qualification, though I hardly think myself, for an efficient Procurator Fiscal, it is a sufficient qualification. After all, the experience in the Procurator Fiscal's Office is very much in a groove and in one line, and does not give the broader qualifications necessary for the varied duties of the Procurator Fiscal.

57,370. What has been the principle on which appointments have been made by the Lord Advocate since 1907?—There have been many cases of promotion either of Procurators Fiscal from a smaller district to a larger district, or of Depute Procurators Fiscal appointed to be Procurators Fiscal. There have also been law agents appointed who were not previously Procurators Fiscal.

57,371. Have those appointments been of a political character or not?—One cannot help thinking that that element might have entered into the appointments, but we have no knowledge of what led to them.

57,372. We have had evidence with regard to other appointments made by the Lord Advocate that it is perfectly well known and recognised that political considerations are entertained, and do form a large element in the method of selection. Does that apply to the same extent to Procurator Fiscal appointments?—It may, but I know as a fact it does not always.

57,373. But it does in some cases?—There is no doubt that in the cases of some appointments the gentlemen appointed were known to be members of the party to which the Lord Advocate belonged, but, of course, they were all law agents of long standing, much longer standing than I have suggested as sufficient qualification.

57,374. The staff of the Procurator Fiscal are, you told us, appointed by the Procurator Fiscal himself?—Invariably. Of course one must qualify that to this extent, that the deputies require the concurrence of the Lord Advocate in their appointments, and, as a matter of fact, it is the concurrence both of the sheriff and the Lord Advocate, because before the Lord Advocate gives his concurrence we have to get the concurrence of the sheriff. I presume that is because the sheriff is supposed to know the standing and qualifications of the gentlemen who are proposed as deputies.

57,375. You have told us that you think it desirable that all Procurators Fiscal should be whole-time officers, and the whole-time system has been gradually extended?—Yes.

57,376. Would it be possible to apply the whole-time requirement throughout, or will some changes of organisation be necessary for that purpose?—On the question of restriction my views are that if the district is of sufficient size to provide an adequate salary for a qualified man, and also to give sufficient occupation to a qualified man, restriction from private practice is

desirable; but if the district is too small either to provide an adequate salary or to give a man sufficient occupation, there may be some doubt whether restriction is advisable.

57,377. Are there many districts which are at present too small to satisfy those conditions?—There are a number of districts that, I think, are too small just now.

57,378. Would it be desirable to amalgamate those districts in order to make them full time?—I think, with judicious consideration, taking into account the local circumstances, it might be desirable to consolidate in many cases.

57,379. Have schemes been prepared from that point of view?—Yes, a scheme was prepared some time ago by the Association of Procurators Fiscal which, I believe, is at present before the Lord Advocate. The general basis of the scheme was that there should be one Procurator Fiscal for each sheriffdom—not the county or the district—and that he should be assisted by highly-qualified deputies in the more important divisions of the sheriffdom. If that scheme could be carried out it would reduce the numbers of Procurators Fiscal to about 16 I think, but it would very largely increase the number of full-time deputies and of clerks. If that scheme were adopted, it would be possible to lay down some more stringent qualification as regards the persons who were to be appointed Depute Procurators Fiscal.

57,380. (*Sir John Kempe.*) There seems to have been one amalgamation last year—Jedburgh and Duns?—That was exactly on that scheme, Berwick being included with Roxburgh.

57,381. (*Chairman.*) Would not you, by a scheme of that kind, transfer part-time service from the Procurators Fiscal themselves to the deputies?—Undoubtedly, but I assume if any such scheme were adopted, it would be part of a larger scheme, because I think then some form of service would require to be constituted for the deputies and clerks.

57,382. We will come to that question presently. I understand from what you say now that you are in favour of a reduction in the number of posts of Procurators Fiscal in such a way as to make it possible to arrange that all should be whole-time posts?—That the deputies should be full-time deputies.

57,383. And that all the Procurators Fiscal should be full-time officers?—That is so, but at the same time the scheme which has been suggested is perhaps rather broad in its details just now. I can quite see that a great deal of modification would be necessary. I do not mean to say that it will be ever possible to reduce the number of Procurators Fiscal in Scotland to 16. Some of the districts are really too wide.

57,384. The difficulty is, I suppose, that in the thinly-populated part of the country the distances are so great that you cannot have a single man dealing with matters in all parts of a district which is large enough to give whole-time occupation?—Yes, that is what causes the difficulty at present.

57,385. And if you make an appointment of a single Procurator Fiscal to deal with a district of that kind, owing to the distances, you will still have to have deputies in different points in that district, and at those points there will not be enough work to make the depute a whole-time officer?—You must bear in mind that the duties of Procurators Fiscal are like no other professional man's. No one can tell where serious crime will occur. A very serious case sometimes occurs in the most outlying district. You will probably remember that the most serious criminal trial of the last half of the last century occurred at Ardlamont, a little outlying place in Argyllshire. The consequence is that, in framing your machinery, you must be prepared for the immediate investigation of serious crime in the most outlying parts of these large districts; so a scheme of that kind will require very careful consideration.

57,386. Looking at this difficulty, and looking at the question generally, will you tell us what modifications you would suggest in the present organisation of the service?—The subject is really so complicated that generalisation is hardly possible to be of any value or any practical use. What I really suggest should be done is, that a gradual system of enlargement of the

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districts should be adopted, as far as the circumstances of each district would admit of it, and that a higher standard for Depute Procurators Fiscal should be laid down, in order that they may be qualified to take their share in discharging the duties in those large districts.

57,387. Would you also introduce a regular system of promotion in a service organised in the manner you suggest?—With a certain amount of limitation. For instance, I do not think that there should be a hard and fast system of promotion, that after a man had been so many years in the service as a Procurator Fiscal he should be necessarily eligible for whatever post fell vacant; because a man might be 20 years Procurator Fiscal in a certain district in Scotland, and not by that means be specially qualified to take charge of one of the large districts if it came in his way.

57,388. A system of promotion does not necessarily mean an automatic system?—I think a system of promotion is highly desirable, tempered by discretion to judge of the suitability of the man who is going to be promoted.

57,389. By a system of promotion, as I understand it, the normal method of filling the higher posts would be, not by direct appointment from outside, but by selection of some one already in the service occupying a less highly-paid post, provided always that there is a person in such a position who is suitable for the more important post. Is that the system you would approve of?—That is exactly the system I should approve of, and, no doubt, in course of time a system of that kind would gradually work into shape, because young men would be taken in to fill the smaller posts, and step by step would rise in the Service.

57,390. How far down would you carry that system? Would you start with the clerks or with the deutes?—It would depend, of course, upon the qualification you are going to put upon the deutes. If you are to establish the qualification that a Depute Procurator Fiscal must be a qualified law agent, then I do not see why it should not start with the clerks. If the clerks are qualified law agents they can become deutes, and pass up then to Procurators Fiscal.

57,391. But could you get qualified law agents for a clerk's salary?—I hardly think you would get a qualified law agent as clerk.

57,392. Your clerks, I understand, are generally young men with comparatively small salaries?—In almost all the offices of the Procurators Fiscal that is the case, with the exception of some of the large districts where a well-paid clerk is required, and I do not suppose that there are more than perhaps half a dozen or ten of those in Scotland just now. In all the other offices in small districts, the rule is simply to employ young lads who come in to learn the work, and after they have been a certain number of years in the Procurator Fiscal's office they pass on to other work.

57,393. You could hardly expect to recruit men for posts like that who would be of the calibre suitable for promotion subsequently to the post of Procurator Fiscal itself?—As matters stand just now that would be so. There are no clerks at present who could be promoted, or very few.

57,394. If you had a system of promotion, it would apparently apply to the Procurators Fiscal and the deutes?—Yes; that is to say, assuming—and I make that an essential point—that you raise the qualifications of the deutes.

57,395. You would apply to them the qualification of five years' standing as a law agent?—I think they should certainly be qualified law agents at any rate, whether they had actually practised or not. Perhaps we might hold that qualification as law agent with a certain number of years' experience in a Procurator Fiscal's office would fit them for the position.

57,396. In a service of that kind, do you suggest that all the offices should be made pensionable?—Yes, it is certainly desirable that they should all be pensionable, from the Procurator Fiscal downwards.

57,397. At present neither the Procurator Fiscal nor his deutes are pensionable?—Not one, and that arises from the history of the office. In those days when the Procurator Fiscal was simply a law agent,

the member of a firm doing a large business, the question of pension did not arise. His duties as Procurator Fiscal were simply added to his other duties. The time when the pension should have been put on was the time when they restricted the Procurators Fiscal to the duties of their office. That time was missed, and now we have the anomaly that the Procurators Fiscal have to spend their whole lives in the employment of the State, and if they fall into ill-health in advancing years there is nothing for them to fall back upon.

57,398. Are you aware that the Commissioners who inquired into the Courts of Law in Scotland in 1871 made a unanimous recommendation in favour of retiring allowances for Procurators Fiscal who were not paid by fees?—Yes, and we have again and again endeavoured by memoranda and petitions to successive Lord Advocates to have that done. We have succeeded in persuading one Lord Advocate after another of the justice of our cause, only to find his lordship pass away to the Bench or somewhere else, and we have to begin again with the next.

57,399. Can you say why the recommendation of the Commission of 1871 has not been carried out?—Undoubtedly the difficulty has arisen through the traditional recollection of the fact that the Procurator Fiscal was a law agent in actual practice. I do not think the Exchequer has fully realised yet that the Procurator Fiscal is not in actual practice. At all events the difficulty has arisen with the Exchequer.

57,400. Do you find any difficulty as regards establishing a pensionable service of the kind you contemplate, in the fact that work is done for local authorities as well as for the Central Office?—Undoubtedly that is a difficulty.

57,401. How do you meet that difficulty?—There are two ways, both of which have been suggested. One is, that the Procurator Fiscal should prosecute in the public interest all offences that are of a public nature. I see no logical reason why he should not.

57,402. What is the position at present? How does it differ from that?—At present there are a considerable number of cases as to which the Exchequer say: "We will not be responsible; we will not pay the expenses of those cases; we will not take any concern with them whatever." Then those cases have to be prosecuted at the instance of various local authorities or local bodies.

57,403. What sort of cases are those?—For instance, cases under the Sale of Food and Drugs Acts. That is a case where the penalty goes to the local authority, and therefore the Exchequer very justly say: "We are not getting the penalties and we will not pay the expenses." There are a number of cases, too, under the Diseases of Animals Acts; there are proceedings under the Lunacy Acts, and a number of cases of the same kind where the Exchequer say: "We will not adopt these cases." The cases have to be prosecuted, and therefore they are prosecuted by the local authorities, who ask the Procurator Fiscal to prosecute for them. In those cases they either pay the Procurator Fiscal by fees or by an allowance in lieu of fees, but they have always to be made the subject of special arrangement with the Procurators Fiscal. It would be much more satisfactory if all these cases could be taken over by the Exchequer and recognised as Exchequer cases.

57,404. In such cases would you still have to act under the instructions of the local authority?—If it was thought necessary that the local authority should exercise a certain control over these cases no doubt that would be so, but I do not see any difficulty in arranging the matter if that were the difficulty, because in many cases the Procurators Fiscal, even in Exchequer cases, act along with local bodies of one kind or another.

57,405. The difference under the system that you propose is merely one of meeting the expenses?—That is so. The Procurator Fiscal, in virtue of his office, really prosecutes only those cases which are prosecuted on behalf of the Exchequer, but as public prosecutor he prosecutes in other cases on behalf of various public

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bodies. If those were all combined the difficulty referred to would disappear. All fines would then go to the Exchequer and all expenses would pass through the Sheriff's accounts to the Exchequer in the usual way. That is one way of doing it. The other way would be to allow the present system to continue, but to make the Procurator Fiscal account to the Exchequer for all sums which he received from these local bodies and let him receive from the Exchequer whatever salary might be thought fit; and if he were employed by any local authority to prosecute, if he recovered anything, let him hand over to the Exchequer what was paid to him. If there is to be any question of a pension scheme, I think the Exchequer would justly demand that all the Procurator Fiscal's income should come from the Exchequer.

57,406. Would a change of that kind involve an additional charge upon the Exchequer or not?—Some time ago the association went into that question pretty fully, and we thought that by various expedients the matter might be so arranged that there would be really very little additional burden thrown upon the Exchequer.

57,407. Is the main difficulty in making a change of that kind the financial question?—Partly the financial question and partly the difficulty of dealing with vested interests. There are some awkward vested interests to be dealt with. There is the question of the Justice of the Peace Court, for instance. In the large majority of counties the Justice of the Peace Courts simply deal with questions under the Licensing Acts, the Excise Acts, and the Roads Acts, and similar things; but in other counties—for some reason which I do not know—they have a large jurisdiction in crimes at common law, assaults, and breaches of the peace, especially in Lanarkshire, where, I believe, they have more than 1,000 cases of that sort a year before the Justice of the Peace Courts. You have certain vested interests there. The Justices of the Peace would, no doubt, require to be consulted and carried with any arrangement which was contemplated.

57,408. When you speak of a vested interest, do you refer to any financial vested interest?—There is the financial vested interest of the Fiscal of the Justices of the Peace, who, of course, is receiving a large salary, and if the matter was swept away to the Crown it would deprive him of his office, and, no doubt, questions would arise. You may say that there are just the three inferior courts in Scotland—the Sheriff Court, in which the Procurator Fiscal is already prosecuting most of the cases, the Justice of the Peace Court, and the Burgh Courts. I do not think the Burgh Courts need trouble us in this consideration, because their jurisdiction would not involve any difficulty, I think, in such an arrangement as we propose.

57,409. It is a question of the Justice of the Peace Court?—That, to my mind, is the greatest difficulty in the way, and I think, probably, if it had not been for the Justice of the Peace Court, the difficulty would already have been solved; it has been under consideration for a long time.

57,410. That is, to a considerable extent, a question of judicial procedure with which this Commission is not concerned. The way it affects us is, that unless the whole of the remuneration of the Procurator Fiscal is paid by the Exchequer, there would be a certain difficulty in putting the service on an established and pensionable basis?—That is so.

57,411. You tell us that you see, at any rate, no insuperable difficulty in introducing changes of that kind?—There really is no difficulty if the question is fairly met; but, of course, there is always the other alternative, that the moneys received from these other sources might be handed over to the Exchequer.

57,412. At present is there any fixed age for retirement for the Procurator Fiscal or his staff?—Not in the more recent appointments. There was for a short time a practice introduced of making the commission of the Procurator Fiscal expire *ipso facto* on the attainment of the age of 70. This, I notice, has not been repeated in the more recent commissions. It is not in my present commission, for instance, though it was in the one I had in Fife. That has, I suppose, arisen from

two facts: one was that it was obviously illegal, and if the Procurator Fiscal could not be dismissed, except by a certain legal process, it was hardly a fair thing to take into his commission a means of dismissing him. The other reason was that it must be quite apparent that it was hardly a fair thing to expect that the Procurator Fiscal on the attainment of 70 would simply walk out of his office without the slightest provision made for his old age or anything else.

57,413. If the service were made pensionable, do you consider that a limit of age for retirement should be introduced?—Yes, that would be necessary, and probably the age of 70 might fairly be fixed in the case of Procurators Fiscal. Sixty-five is, I think, the Civil Service age, but in the case of a Procurator Fiscal he generally enters upon the office pretty late in life. A Civil servant begins as a young man and goes on during his whole life. The Procurator Fiscal enters on his office late in life, and then the duties of the office of Procurator Fiscal are such that every year additional experience adds to the value of the officer; and, therefore, if he is fit for the discharge of his duties, I think the age of 70 might be fixed as the age for retirement, but also allowing liberty to retire somewhat earlier in the event of physical incapacity.

57,414. What is the usual age of a Procurator Fiscal when he is appointed?—Very few Procurators Fiscal get a chance of appointment under 40.

57,415. If you had an established service with promotion of the kind you have suggested, the age of original appointment would probably be lower?—Undoubtedly. You might appoint a comparatively young man to a small district, and then he would be promoted by degrees.

57,416. So that your difficulty as regards the age of retirement would be removed?—Yes. Perhaps I may say, on the question of promotion, that at present the few salaried deputies and clerks that there are, are quite eligible for promotion from one district to another, but the matter rests entirely with the Procurators Fiscal themselves; they make the appointments and therefore they have the opportunity of promoting from one district to another if they find a suitable man.

57,417. If an established service was set up, do you suggest that the deputies should still be appointed by the Procurator Fiscal himself, or do you propose some other method of appointment?—I fancy that in that case it would be necessary to have some other form of appointment. If the Exchequer is to be to some extent responsible for these men, it would naturally expect that the Crown should have some direct voice in the appointment. Of course the Crown has now. All appointments of deputies are made with the concurrence of the Sheriff and the Lord Advocate, so that there is already a certain amount of check there, and that might be extended a little further.

57,418. A somewhat similar problem arises with regard to the staff of the Sheriff Courts, and the witness who was here this morning suggested that if you had a combined service the proper authority to select for promotion by transfer from one county to another, would be a committee of Sheriff Clerks. The corresponding body in this case would be a small committee of Procurators Fiscal. Would a system of that kind be workable?—I must confess that I have a rooted objection to appointments being made by a committee if it can be avoided. There are two objections to it: one is, that the larger the committee the larger the extent of wire-pulling which can be put in force. Another and more important one is, that you lighten the degree of the responsibility of the appointing officer. I think it is very important, in a case of this kind, that you should have responsibility fixed very distinctly upon one particular person.

57,419. But if you are adopting a system which involves transfer from one county to another for the purpose of promotion, is there not some difficulty in giving the power of appointment to a particular person?—For one thing there will not be such a very great number of appointments. Unless you adopt some such system as was suggested of enlarging districts and appointing qualified deputies to the charge of sub-districts, there are really very few appointments to be made.

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57,420. If the number of Procurators Fiscal is diminished the number of deputes would necessarily be increased?—Yes.

57,421. So that on the system you suggest the question would become one of more importance than at present?—It would; but I am inclined strongly to favour the power of appointment, both as regards Procurators Fiscal and their deputes, being vested in the hands of the Lord Advocate. The Lord Advocate, through his deputes and the Crown Office staff generally, has the means of knowing the qualities of every Procurator Fiscal in Scotland in a way no committee, or other person, could possibly attain. I think, as regards Procurators Fiscal themselves, the appointment in the hands of the Lord Advocate himself is undoubtedly the better method; and as regards the deputes, if the appointments were made by the Lord Advocate with the concurrence of the Procurator Fiscal, who is interested, I think the difficulty could be got over.

57,422. (*Sir John Kempe.*) You said that the expense of placing the Procurator Fiscal and his staff on an establishment could probably be arranged without extra charge on the Exchequer?—Yes, I think so.

57,423. In the only case which appears on the Estimates—Jedburgh and Duns—the cost of the two, 1,100*l.*, is now reduced to 950*l.* That is a reduction of about one-seventh. That reduction, I suppose, takes into account the additional depute who had to be appointed?—I think there was only one depute appointed there—the depute at Duns. I think the Procurator Fiscal at Jedburgh himself simply works, as in the other smaller districts, with an honorary depute.

57,424. Does that case represent, do you think, the total reduction which would be made by an amalgamation of that kind, because I see that for those two districts, Jedburgh and Duns, the Procurator Fiscal now has the second largest salary of all the districts excluding Edinburgh and Glasgow, the highest salary is Dundee, and Jedburgh and Duns together, 950*l.*, is the second in the whole list?—Yes.

57,425. Do you suggest that that represents the only permanent reduction, or is that only temporary until a further vacancy occurs, when a further reduction may take place. It seems a very high salary for these small places?—That would be subject to consideration when a vacancy did occur.

57,426. That was the way in which you thought the expense might be covered by reductions of that kind?—Yes. Under the scheme which was suggested it was ascertained that a considerable reduction in the actual salaries might be effected undoubtedly.

57,427. And out of that the clerks would have to have rather higher salaries. You consider the clerks and deputes are not overpaid at present?—With the exception of about half a dozen districts the clerks are just boys who are getting the usual allowances paid to boy clerks in the district where they are. We have hardly yet got what you might call an efficient staff of clerks. Under the present system there are not enough places for them. If a re-arrangement were made there would be more clerks employed.

57,428. You said that the duties of the Procurator Fiscal had been historically built up. I suppose they are all statutory; they have been built up by one man being given the different duties, all being statutory duties?—I rather think, on the contrary, that hardly any of the Procurator Fiscal's duties are statutory at all. I think his office has almost entirely grown up on common law. There are very few statutes that mention the Procurator Fiscal. He is mentioned under one of the Railway Acts in regard to fatal accidents occurring on railways, but very few of his duties are appointed by Act of Parliament. He has just begun originally as the adviser of the Sheriff. I fancy that the Sheriffs appointed these agents partly because some of the Sheriffs were resident in Edinburgh and required somebody to look after crime within their sheriffdom, and also partly because they were responsible for the fines of the district, and required to appoint somebody to collect them. They just gradually grew up, and after a time the system of reporting to the Crown office was adopted, and naturally it came to the

Procurator Fiscal to make these reports and attend to them. The whole thing has really grown up of itself.

57,429. But there is no recommendation for altering that part of the arrangement. The duties would remain as they are; you would not re-group them, or anything of that kind?—I think not. It has grown up in a sort of haphazard fashion, as it were; but it has grown into a definite system which everybody understands, and it really works very well.

57,430. And it is an economical way of doing it for one man to look after it all. With regard to promotion by transfer, you said the present Lord Advocate approved promotion by transfer?—Yes.

57,431. You also said that the salaried deputes are eligible for promotion; therefore, I suppose it can be done, if the Lord Advocate approve, without any alteration of the law?—Without any alteration whatever if the Lord Advocate thinks fit just now to promote anybody, either a Procurator Fiscal or a depute.

57,432. But it is not done, because it is merely not the custom to do it?—It has been done. There were two depute Procurator Fiscals appointed within the last year or so to important posts. There are several cases that I could recall in which Depute Procurators Fiscal have been appointed to be full Procurators Fiscal; but the difficulty in a great measure is what I said, that very few Depute Procurators Fiscal are qualified law agents, and there is a certain delicacy in promoting to a position of that sort a person who has not the professional standing.

57,433. (*Sir George Paul.*) The Lord Advocate is the chief of the Criminal Department?—Yes, the head.

57,434. And the Procurators Fiscal are practically his assistants?—Yes, each in his own district.

57,435. Locally, in your own special localities?—Yes.

57,436. Do you think that, being the head of the department, he can select his Procurators Fiscal better than a committee could?—That is my opinion.

57,437. As regards promotion, the Lord Advocate cannot be expected to know throughout Scotland men suitable for promotion. What do you propose as regards bringing that under his notice?—The relationship between the Procurator Fiscal and the Crown Office is so close just now that there is a succession of weekly or daily communications, and, indeed, the Lord Advocate and his staff have a very thorough and complete knowledge of the qualifications of all the men throughout Scotland. As a matter of fact, there has been established at the Crown Office a waiting list on which these Procurators Fiscal, who are desirous of promotion, are allowed to place their names.

57,438. And the deputes?—I do not suppose there would be any objection to a depute putting his name on it, but so far it is only the Procurators Fiscal who do so.

57,439. The Lord Advocate could get confidential reports upon deputes or Procurators Fiscal in the various counties, so that he might see those well reported upon for promotion?—It is quite true he would not have the same opportunity of knowing regarding the deputes, though I fancy almost all the deputes who have been long in office are well known at the Crown Office.

57,440. The getting of information might be easily arranged?—When the Advocates Depute come down to the various circuits to deal with cases the Procurator Fiscal and his depute in charge of the case there generally attend, and therefore, I fancy, the Advocates Depute get personally acquainted with all the principal Depute Procurators Fiscal.

57,441. Then the Procurator Fiscal, I suppose, must necessarily be a man of very considerable experience, because, as I understand from you, he has to collect evidence in very difficult cases, for instance, in murder cases?—That is so.

57,442. He has to take the examination of witnesses and collect the evidence for the Crown counsel?—Subject to instructions from the Crown counsel the Procurator Fiscal conducts the whole inquiry in all those cases.

57,443. Which requires a considerable amount of ability and tact?—And experience.

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57,444. For instance, there was the great Ardlamont case that you referred to. That was a very difficult case, and I suppose the evidence in that case had to be got up very much by the Procurator Fiscal of Argyllshire?—Yes, it was got up by the Procurator Fiscal; but I rather think that in that case the Procurator Fiscal of Argyllshire was assisted by the then Procurator Fiscal of Midlothian, though I am not quite certain. At all events the whole evidence in that case was got up by the Procurator Fiscal.

57,445. There was a case which happened within your own jurisdiction, the famous Markinch case, where the body was thrown into a wood?—That was in my predecessor's time, and the whole inquiry was conducted by him. There is another point not to be forgotten, and that is, in many of the cases in the Sheriff Court where the Procurator Fiscal conducts the prosecution, the defence is conducted by solicitors of the first rank, and very often with the assistance of counsel, so that the Procurator Fiscal must be a man who has sufficient forensic qualifications to be able to conduct such a case. He can always get the assistance of Crown counsel in difficult cases, and Crown counsel do appear in the Sheriff Court in a case of importance; but still there are a large number of cases in which the Crown counsel do not appear, and which the Procurator Fiscal must conduct himself.

57,446. The Procurator Fiscal collects the evidence under the instructions of Crown counsel?—That is so.

57,447. (Mr. Graham Wallas.) The Treasury allowance to a Procurator Fiscal includes the allowance to his clerks, we are told, in the Estimates. Does the Treasury ask whether all or any of that sum of money does go to the clerks?—So far as I am aware, no inquiry is made. The Exchequer issues quarterly an order for the amount, and the Procurator Fiscal is required to maintain his office efficiently.

57,448. Whose business is it to see that the work is efficiently done?—No doubt the Sheriff in the first instance has the duty of superintending the administration of justice within the county, and the Sheriff himself would see that the work was being efficiently discharged. In addition to the Sheriff, the officials at the Crown Office are seeing the procedure in every case of importance, and they would soon see whether the work was being efficiently conducted or not.

57,449. Do you know in your recollection any cases that has happened where there has been a serious complaint of inefficiency against a Procurator Fiscal?—I do not recollect any. I think, on the whole, that the Procurators Fiscal in Scotland have discharged their duties very efficiently, and very free from censure of importance.

57,450. There has been no case of failure that appeared from old age?—I am not aware of any case in which there has been a miscarriage of justice through the failure of the Procurator Fiscal.

57,451. At present you suggest that a Depute Procurator Fiscal might, during his period of service as a clerk, acquire qualifications as a law agent, and that would be one way of securing that he might afterwards be promoted to Procurator Fiscal?—Yes, I think if he were in earnest, there would be no difficulty in his doing so, and if he were not in earnest he would not be the man suited for the appointment.

57,452. Is it the case that in the Procurator Fiscal's office a clerk would be allowed, if that period of service counted for apprenticeship, to qualify as a law agent on that period of service?—I should think, as the qualifications for law agent are just now, it would be rather difficult. It would be necessary if such a qualification were to be made that some facilities should be given by which deutes might have the opportunity of qualifying themselves.

57,453. Those facilities depend in part upon the position of the professional organisation?—Undoubtedly, but there is the difficulty of apprenticeship. Many of the deutes have not gone through the apprenticeship required under the Law Agents Acts. Some provision would require to be made by which that requirement could be met. I do not see any difficulty in arranging it.

57,454. In some cases there are honorary deutes for Procurators Fiscal in the outlying districts?—In the majority of cases I would be inclined to say that that is so.

57,455. What is the motive that inclines a man to take an honorary deuteship?—Personal friendship, I think, to a great extent.

57,456. Does he get a few fees, or does he do his work for nothing?—It is rather the other way about. The fact of a man being an honorary deute is sometimes the occasion of his having to give up the defence of a case in which he would otherwise have been called upon to act. The usual rule is that the Procurator Fiscal asks one of his personal friends to act for him, but in some cases, as I say, there is an honorarium given, but not so large as to be worth much.

57,457. We were told this morning that there was a scheme suggested by which the number of Sheriff Clerks in Scotland should be reduced in the outlying districts to bring the total number down to something like 15. Do you think that in those outlying districts it would be possible that the same gentleman should hold the office of Sheriff Clerk and Procurator Fiscal?—The qualifications for the two offices are entirely distinct.

57,458. But do not you think a skilled professional man of considerable experience as a law agent, both in criminal law and other business, could do it pretty well?—Yes, but you would not get such a man to fill the office in an outlying place.

57,459. But the combined office might be made an important and well-paid office?—It might be made more valuable in that respect, certainly. The requirements for a Sheriff Clerk or Sheriff Clerk Depute are simply that he understands Court procedure, but that is only a very small part of the qualifications of a Procurator Fiscal.

57,460. But I am assuming that you could get an experienced law agent who has had the all-round experience of a law agent which includes Court procedure and criminal law. If you appointed him as Sheriff Clerk he would forget his criminal law, but if you appointed him to both offices he would keep the knowledge of them both up?—But who is to act as Clerk of the Court?

57,461. Is it quite impossible that the man who is deute should do both things?—It is. You would only have one man who could act as the Clerk of the Court. The Procurator Fiscal could scarcely write up the findings upon summary complaints; if he did, I am afraid there would be allegations of corruption or injustice.

57,462. You told us you believed that in order to secure good appointments it was necessary to concentrate public and personal responsibility in the hands of one person, namely, the Lord Advocate?—Yes; for myself I have great confidence in an appointment made in that particular manner.

57,463. One of the conditions of carrying out such public and personal responsibility is that the best man possible should be appointed?—Undoubtedly.

57,464. And any other consideration, except that of the qualification of the man for the post, should be excluded?—As far as possible.

57,465. Do you think, taking the history of Scotland for the last 20 or 30 years, the concentration of responsibility for legal appointments in the Lord Advocate has in fact excluded political considerations?—Speaking of my own personal experience, I would say that in many cases I know there have been appointments made which are not political at all.

57,466. There have been appointments made which are not political, but surely that does not prove that there have been no appointments made which are political?—No; but there is a good deal of misunderstanding on that question of political appointments. If a good man gets the place, what does it matter what party in politics he belongs to? Really the system has worked wonderfully well. The men appointed have been good men and done their duty well. Of course if one could eliminate politics altogether it would be a good thing, but it is not easy to do it, because officials are human and they cannot altogether deprive themselves of a personal bias.

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[Continued.]

57,467. But you would agree that the concentration of it on one man has not in fact eliminated that consideration?—The curious thing is that, since the patronage was vested entirely in the Lord Advocate, we have had a remarkable breadth of appointment in Procurators Fiscal. Taking the last considerable number of appointments, they have been either promotions of Procurators Fiscal or of Depute Procurators Fiscal. We have had very few men taken in from outside in the last seven or eight years. I can only recollect three outside appointments.

57,468. (*Lord Dundas.*) As I understand, as regards the present organization of what I may call the Department of the Procurators Fiscal, you have suggested one or two possible improvements?—Yes.

57,469. You said something about fixing a standard of qualification for the Procurators Fiscal and their deposes as one part of the improvement?—I think that very important, if it could be done.

57,470. And you mentioned the matters of pension, and so forth?—Pensions are a most important matter.

57,471. And the extension of the districts and consolidation of them?—Yes, with a certain measure of discretion and judgment. I am not inclined to advocate an extremely hard and fast enlargement of jurisdictions.

57,472. No, but beyond these quite legitimate topics, are there really any definite claims in your improvement for alteration of the present arrangement?—Like all other officials we have grievances. I do not suppose any officials have not, but apart from these mentioned I do not know that there is much I need press.

57,473. Within the very narrow limits of the Procurator Fiscal's service, do you really think there is much room for putting things on what is sometimes called a Civil Service basis, or anything of that sort?—If the main point could be conceded, that the Procurators Fiscal shall always be selected from the body of qualified law agents of standing who have actually been in practice for a certain number of years, or from deposes who have a sufficient qualification, I think that the other matters could be arranged.

57,474. There is no legal difficulty, as matters stand just now, about deposes being transferred from place to place or anything of that sort, if it were thought desirable?—There is no difficulty whatever in the way of that.

57,475. By the necessities of their position, I take it

the Procurators Fiscal are in almost daily communication with the Crown Office in Edinburgh about the matters of their routine?—Almost daily.

57,476. And nearly as much, naturally, necessarily in contact with the four Advocates Depute who serve under the Lord Advocate in the Crown Office?—Yes; as they take the different circuits in rotation every Procurator Fiscal at one time or other comes under each depute.

57,477. You report as a matter of routine to the Crown Office on matters of sudden deaths and the like?—Yes.

57,478. That is a Procurator Fiscal's duty, and then, if Crown counsel are satisfied that there is no case for inquiry they simply mark, "No proceedings," and back it comes to you?—That is so.

57,479. On the other hand, if any doubt occurs to the mind of Crown counsel, they instruct you to make further inquiries in the matter?—That is so.

57,480. As regards the crimes on which you report, I suppose the Court for trial and the mode of trial are dictated to the Procurator Fiscal by the Crown counsel, the Advocates Depute, under the advice, if necessary, of the Lord Advocate and the Solicitor-General?—That is so.

57,481. With all that intimate touch between the Procurators Fiscal and the Crown Office, is it not pretty apparent that the Lord Advocate has the means of acquainting himself exceedingly well with the quality of men that he has in Procurators Fiscal, and even in deposes all over the place?—That is the case. They know at the Crown Office exactly what is the qualification of almost every one of the Procurators Fiscal. With regard to the deposes there is perhaps more difficulty, but after a length of time in their appointment they get familiar with them.

57,482. Even in the case of Deputes Fiscal I suppose the Advocates Depute, when they go and prosecute on circuit, come in contact with them?—Undoubtedly.

57,483. So they also come within the actual purview of the Lord Advocate of the day, so far as they necessarily should?—They do.

57,484. Are these among your reasons for thinking that the Lord Advocate has means at his disposal of a better and juster knowledge of the situation than any committee of advice or the like could have?—That is what I feel; that his Lordship has opportunities of knowing these details which no committee would have.

MR. PETER FRASER MACKENNA, LL.B. (Procurator Fiscal of Ayrshire (Ayr District)), called and examined.

57,485. (*Chairman.*) You are Procurator Fiscal of the Ayr district?—Yes, of Ayrshire.

57,486. How long have you held that post?—21 years.

57,487. Are you a solicitor?—Yes; before that I was a solicitor, a bank agent and a land agent.

57,488. You have heard the evidence given by Mr. Brown?—Yes.

57,489. Are there any points in that evidence which you would wish to supplement or modify in any way?—I think that on the whole I agree with what Mr. Brown has said; but there are one or two points which I think might be none the worse for some emphasis. I do not know that one would quite gather from Mr. Brown's evidence that we do regard ourselves as having a very distinct grievance, particularly, I think, with regard to the prolonged failure to carry into effect the recommendations that you, sir, quoted from that Commission that sat so far back as 1871, with regard to pensions. That has really been a burning question with us for many years. The case for pensions is much stronger than it was in 1871. Procurators Fiscal were not then restricted, and since 1871 they have been increasingly subjected to the disabilities which attach to the Civil Service. As Mr. Brown said, we have convinced one Lord Advocate after another that in all fairness, in analogy with other public servants, we should have pensions; but the difficulty is, that the Lord Advocate, by political vicissitudes, moves off, and we are still left as we are. Might I just say, that it

was with some little misgiving we found our case being brought before the Commission. We are quite glad to appear, of course, and glad of the opportunity of having our position stated, but the position is that we seemed—at least, we fancied ourselves—about to realise our expectations in these matters. We were told by the present Lord Advocate's predecessor that there was in existence a Bill to give effect to these matters, and even that he had the promise of legislative facilities from the Prime Minister for carrying that out. The present Lord Advocate said, just the other day in Parliament, that the matter was under consideration. Now we have some little concern lest the fact that it is before this Commission may cause the matter to be shelved. No doubt ultimately a recommendation, such as we would hope to get from this Commission, would be a strong lever; but we are apt to get impatient, and Royal Commissions, of course, cannot report without some delay, and an inevitable delay follows before their recommendations, however strongly worded, get legislative effect. We do feel very strongly upon that point, and I confess that I see a feeling of something akin to bitterness growing up in the minds of Procurators Fiscal on that matter.

57,490. Have you known cases in which men who have arrived at an advanced stage of life and who would be anxious to retire, have been prevented from retiring through the absence of a pension system?—I think that is so. I think there are cases to-day of that sort where they would wish to retire and cannot, or will not, do so.

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[Continued.]

57,491. You mention, in the *précis* you have given us, the fact that there is no provision for leave of absence, either by way of holiday or on account of sickness?—I think that is a very serious matter for the men in smaller districts.

57,492. Is not that provided for by the system of deputed?—It is not, although there may be a depute. Take a Procurator Fiscal in a small district with, perhaps, just enough work to keep himself busy. You must understand that a Procurator Fiscal must give his own personal attention to his work, and he cannot have an understudy who is sufficiently in touch with things, or sufficiently experienced to take his place if, from the desire of a holiday, or from illness, he has to go off.

57,493. What does he do, in fact?—He does not go away.

57,494. Does he never get a holiday?—I have had only one holiday in 21 years, and I know of many Procurators Fiscal who cannot take one.

57,495. But you have one depute who is remunerated and two honorary deputed?—Yes.

57,496. Are none of the three capable of taking your place for a short time?—I do not think they are, because I do my work myself. I like to be busy, and I keep my work going, and I have no sufficient understudy to allow me, with confidence, to go off and leave my work.

57,497. What is the remedy that you suggest for that?—I have thought over remedies, naturally, and I am afraid I have not been able to find one, but I think that should be taken into account in the general estimation of the situation of Procurators Fiscal. The fact that in the smaller districts they are subject to that difficulty should be an increased reason for opening up promotions to officials in smaller districts. I think it should also be taken as a reason for giving them better emoluments than they now have, and also for giving them retiring allowances. I do not think there is any direct corrective to it.

57,498. Would it be possible to have one or more supernumerary Procurators Fiscal?—Peripatetic?

57,499. Yes, peripatetic, who could be sent to take the place in a Procurator Fiscal's absence on a holiday or through illness?—That is the only suggestion which occurred to me as feasible. I do not say it is not feasible. There might be one to stand by for an emergency; but it would be difficult to arrange in order to provide a definite holiday. I do not know any other case where an official's responsibility not only is unceasing all the year round, but is quite unabated. We are responsible all the year round; Sunday and Saturday, vacation and session, makes no difference to us. Crimes take place; people die and accidents happen at all times, and our work is emergency work and has to be done at once.

57,500. The work appears to be of such a nature that a competent person sent down for the occasion could at once take up the work and continue it during the absence of the Procurator Fiscal?—Probably better than the immediate Procurator Fiscal could; he would have more varied experience. It is not simply crime I mean, but every case of sudden death has to be disposed of. A Procurator Fiscal has at once to take that up because the burial cannot take place until he is satisfied. So that his work is emergent and must be immediately carried through. May I refer to the fact that we differ from the Civil Service in this respect: there is no increase of pay with length of service, which I think is the rule that generally obtains throughout the Civil Service; but it does not apply to us at all. The Treasury attitude to us—and I think it is the Treasury that we are up against, if I may use the phrase, in most of these matters—seems to be that they employ us to do a definite bit of work, and when they have paid us for doing that their contract ceases. But we would wish them to be consistent in that matter, and where duty is piled on to one, as it is, they should take that into consideration; that is to say, if it is to be piecework it should be piecework throughout.

57,501. Is not that taken into consideration in fixing from time to time the salaries of the Procurators

Fiscal?—I am not aware that it is. I have known one case where an official was able to authenticate an addition to his work of 50 per cent., and the Treasury contented themselves by giving him a 5 per cent. increase to his salary, which was not sufficient to cover the extra outlay that the additional work had entailed on him. What I refer to is this. It is the great body of legislation which takes place now. Take the Motor Car Act, which added enormously to the work of Procurators Fiscal; the Merchant Shipping Act; the Mines Act; the National Insurance Act; the Old Age Pensions Act, and so on; every one of those involves additional duty, and very often very intricate duty, on the Procurators Fiscal.

57,502. Have they involved additional expenditure for staff and assistance?—Yes, I think so. I think there are many cases where it must inevitably involve additional outlay for staff, and there is no corresponding consideration given.

57,503. Is not that taken into account when the question of salary is raised?—In the first place it is left to the Procurator Fiscal to raise the question himself, and it is an invidious position for an official to be always hammering away at the Treasury and asking for more. I think it would be much better to have an automatic increase, as takes place in other services, with length of service, and correspondingly increased efficiency.

57,504. That matter would be met to some extent if a system of promotion were introduced, such as has been described by Mr. Brown?—Yes, I think it would; but on the occurrence of every vacancy the Treasury seems to think it its duty to cut down salaries. There are cases where they have put on a restriction from general practice, and have imposed an age limit for retirement—an illegal proceeding, as has been pointed out—and in the face of those two things, and the increased cost of living, have reduced the salary.

57,505. What is your view as to an age limit for retirement?—Of course a pension has that as its sequel. If there are to be retiring allowances there must be an age for retirement.

57,506. If retiring allowances are to be granted, what age would you fix for retirement?—I am not sure that 70 is not too high. You have to remember that 70 might be all right enough for one with a concentrated district; but take a rural Procurator Fiscal in a rural district, he is liable to a sudden call at any moment, perhaps, to a remote part of his district, involving exposure to the weather at all hours. I am not just sure that a normal man of 70 could actually meet that requirement.

57,507. You would be inclined to suggest a lower limit because of sudden calls and the amount of travelling?—I should suggest 70 as a compulsory age, but 65 as an optional age.

57,508. The ordinary Civil Service limit is 60 as an optional age, and 65 as a compulsory age?—Yes; but, as Mr. Brown pointed out, there is the consideration that Procurators Fiscal do not come on the scene, as a rule, until somewhat advanced in years. That, as you, sir, suggested, might become a thing of the past.

57,509. Are there any other points to which you wish to call attention?—Might I revert to the question of the retiring allowance, because that is a matter which we do feel very strongly upon. You, yourself, indicated that that might be complicated by the fact that a Procurator Fiscal does work for other local bodies. There is also a complication that Mr. Brown omitted to mention, and that is a little historical. The Procurator Fiscal was originally paid from local sources, and the Government took over, piecemeal, responsibility for his payment; but the residual liability rested, and to-day rests, with the counties who have to make the Procurators Fiscal a certain payment for the residual part of their original duty. Now that is a source of great friction, where friction ought not to be, between the Procurators Fiscal and the local authorities. The local authorities are not alive to their obligation, and they naturally resent having to pay an official whom they have no control over. I think that should be wiped out, and that the Government should take over the total responsibility for the payment of Procurators Fiscal,

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[Continued.]

which would do away with one of the reasons that are urged against us having retiring allowances. I think we can put forward this: we Procurators Fiscal have been able to effect a considerable number of public economies by improvements on the system of criminal procedure, and I am quite sure that the economies that have in that way been effected would much more than meet any additional call that would be made on the public purse for the provision of retiring allowances. I might mention one: dealing with the case of persons who want to plead guilty and have their cases quickly disposed of, there was a provision introduced into the law at the instigation of a Procurator Fiscal, which I am sure has saved thousands and thousands of pounds to the country, in addition to being in itself a very admirable improvement in criminal procedure. Of course we admit that we are bound to do our best, and we claim no credit for these improvements; but we do say, that if the money that we have in that way saved to the Treasury was reckoned up, it would easily cover the slight additional cost that would be involved by giving us retiring allowances. It is invidious to draw comparisons, but we cannot help drawing comparisons between ourselves and the Sheriffs and Sheriffs Substitute. No doubt they are on a different level from what we are, but their case is somewhat analogous, and we cannot shut our eyes to the fact that Sheriffs Principal, although they are not confined to the duties of their official work, but have the facility of practising otherwise, do have a right conferred on them by Parliament to annuities, and on a favourable scale. Similarly, Sheriffs Substitute, who have had a somewhat similar history to ourselves, also have the right to retiring allowances. Then, in the Act of 1907, there was introduced a provision to meet the case of a Sheriff Substitute who might be incapacitated temporarily through illness; and he is in this position, that he gets his place filled for him and draws his salary.

57,510. Which section is that?—Section 16.

57,511. That applies to absence through ill-health?—Yes. We have no analogous provision.

57,512. That section enables the Secretary for Scotland to make an interim appointment of a person to discharge the duties of a Sheriff Substitute during his absence from ill-health?—Yes; and to pay that interim person out of moneys provided by Parliament.

57,513. Do you suggest a similar arrangement in the case of Procurators Fiscal?—It would be welcomed. There are one or two cases of Procurators Fiscal who have broken down, and cannot retire because they have no right to retiring allowances.

57,514. What has been done in those cases?—They have just had to make their own arrangements for carrying on their work.

57,515. They have employed a depute to do the work?—I expect so.

57,516. (*Sir John Kempe.*) Does the Procurator Fiscal give his whole time to the office, or does he take other work?—Formerly he did not give his whole time, but was a solicitor, sometimes in very extensive practice. The rule of restriction was introduced, largely, I think, owing to some trouble in the West Highlands and in some mining districts, where incompatibility of interest arose, and it was suggested that the public interest did not get the attention it ought to have got, and in consequence of that the policy was adopted of restricting a Procurator Fiscal to the duties of his office. That policy has been generally followed. The difficulty, of course, is the small district; you want to give a man sufficient to do. On the other hand, the necessity for restriction, unfortunately, is greater in those small districts, because the possibility of a conflict of interest is obviously greater in a small place than in a large one, and that is really the difficulty about restriction. The only way in which I think it can be met is by consolidation of districts, and one has to remember that the facilities for travelling which the motor car gives lessen the difficulty to a very considerable extent.

57,517. In the cases where you say you have new duties put on you without more salary or more provision for help, are those cases confined to the districts where a Procurator Fiscal gives his whole time or are there

some in small districts where he does not give his whole time? Where a man gives his whole time already, would they decline to give him more salary or more staff, or only where he gives part of his time to his duties?—They do decline.

57,518. In both cases?—I think so. They do not give a staff as a rule. The Procurator Fiscal, except in one or two isolated cases, gets a lump sum, and has to run his office accordingly. This increase of work goes on, and there is an increase of his own personal work by new legislation of some sort. It increases the call on his own personal service. I make no complaint of that, although it should be remunerated, but it really involves actual increased outlay for staff, and there is no way in the meantime by which that is met, except by a Procurator Fiscal making a definite complaint and an application for rise of salary, and I have given one instance showing the way in which, in that instance, it was met.

57,519. Your impression is that there are cases in which the Treasury has actually refused to give more remuneration or anything more for staff where the Procurator Fiscal gives his whole time?—Certainly.

57,520. (*Mr. Graham Wallas.*) On the point of how to secure the carrying on of the Procurator Fiscal's work in sickness or through the need of a holiday, do you think in large closely-populated districts it might be possible to appoint a sort of Assistant Procurator Fiscal, drawn from the same type of experienced law agent and capable of taking the place of his principal?—I do not know that in a district such as you predicate the difficulty exists, because in such a district he would probably have constantly in his employment an understudy who could take his place. I am rather referring to the case of the man who is outside and not in an important thickly populated district, but who is in a rural district, say, and who, from the conditions of his work, cannot have any person with him who can effectively take his place.

57,521. But the understudy in a big district is not a man definitely appointed as assistant Procurator Fiscal, but probably is an elderly man who has worked his way up from being clerk in the office?—But he is there as depute, however he has come to be so. In some cases a depute is a solicitor brought from outside and appointed. He is there as depute, and has had experience of that work.

57,522. I am thinking of the further difficulty of pension. If you want a pension system it is desirable that the normal period of service should be rather long, and it is undesirable to have 15 years' service from a man and then pension him for life. If it were the custom to appoint future Procurators Fiscal at about 35 years of age as assistant Procurators Fiscal, and let them have a rather long period of service, it would be more economical from the point of view of the Treasury to pension them later?—Certainly.

57,523. If, in the thinly populated districts, it was desirable to make an interim appointment, and to send someone who knew the work thoroughly well to take the place of a man who for the moment was sick or wanted a holiday, one of those young assistant Procurators Fiscal might well do that job?—Certainly, if the whole scheme was organised.

57,524. It would be very easy to organise it in the Lord Advocate's Office?—I do not see any difficulty.

57,525. You rather pressed the point that the work of the Procurator Fiscal is not merely the work of sitting in an office and writing on paper, but it requires a certain measure of actual physical efficiency?—Certainly.

57,526. One would suppose *a priori* that where the appointments are made without limit of age and with no pension, you would find in any considerable service a certain number of men who are past the period of full physical efficiency. Has that in your recollection ever happened?—It is rather an awkward question to ask me, is it not?

57,527. Well, take it of people who are now dead—I am not asking for names. Can you remember, of those who are now dead, anybody who stayed on after the period of full efficiency?—I think the system

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[Continued.]

inevitably involves that, does it not? A man will not give up if he has no retiring allowance. As I have heard said, so long as he can sign his name, he will get his work done for him.

57,528. And it is not an office to which the public remain indifferent. The good government of a district rather depends on the mental efficiency of the Procurator Fiscal?—I think so.

57,529. (*Lord Dundas.*) You mentioned incidentally a statutory improvement about prisoners pleading

guilty. No doubt you mean Section 31 of the Act of 1887?—Yes.

57,530. The ostensible author of that Act was Lord Advocate Macdonald?—I have heard Lord Advocate Macdonald say himself he was indebted for it to Mr. Hart of Glasgow. That is my reason for saying so.

57,531. I wanted to know why you said it, and I am glad you have told me?—I have always understood that Lord Kingsburgh said so.

ONE HUNDRED AND THIRTY-SEVENTH DAY.

Thursday, 3rd June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Sir JOHN ARROW KEMPE, K.C.B.

Sir GEORGE MORISON PAUL.

Mr. ARTHUR BOUTWOOD.

Mr. JOHN ROBERT CLYNES, M.P.

Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. THOMAS SWINTON PATERSON, B.L., S.S.C., called and examined.

57,532. (*Chairman.*) You are Principal Clerk of Bills in the Court of Session?—I am.

57,533. How long have you held that post?—Since May 1907.

57,534. What had been your previous experience?—Before that I had been in practice as a solicitor before the Supreme Courts in Scotland for over 20 years.

57,535. You gave evidence before the Committee on Minor Legal Appointments in Scotland in 1910?—I did.

57,536. In your evidence before that Committee, which we have now before us, you stated very fully the nature of the business which comes before the Bill Chamber?—I did.

57,537. It will, therefore, be unnecessary for the Commission to go into that matter in detail, but it would be convenient if you would state very briefly the principal heads under which the Bill Chamber business comes?—The work of the office may be conveniently stated to be as follows: I. Suspensions, Suspensions and Interdict, &c., initiated by Note and corresponding with the old procedure by Bill from which the title "Bill Chamber" is derived. The Note may be refused, but if a *prima facie* case is made out, only the interim regulation of the rights or possession of parties can be dealt with in the Bill Chamber, and the Note is passed to the Outer House for further procedure. II. Bankruptcy Proceedings finally transferred from the Inner House to the Bill Chamber by the Bankruptcy Scotland Act, 1856. III. Numerous applications specially directed to the Bill Chamber under various statutes, including Railway and Canal Valuation Appeals, Appeals under the Public Health Acts, Petition under the Titles to Land Consolidation (Scotland) Act, 1868, and Applications under the Small Landholders (Scotland) Act, 1911. IV. Petitions presented to the Junior Lord Ordinary under the Distribution of Business Act, 1857, viz.: "All Summary Petitions and applications to the Lords of Council and Session which are not incident to actions or causes actually depending at the time of presenting the same." And in particular (1) Petitions under the Entail Acts; (2) Petitions and Applications under any of the General Railway Acts or under the Lands Clauses Consolidation (Scotland) Act, 1845, or under any local or personal Act; (3) Petitions and Applications relative to money consigned under any statute or

law subject to the order, disposal, or discretion of the Court of Session; (4) Petitions and Applications for the Appointment of Judicial Factors, Factors *loco tutoris* or *loco absentis*, or *Curator Bonis*, or by any such Factors or Curators for extraordinary or special powers or for Exoneration and Discharge; (5) All Petitions, Applications, and Reports under the Pupils Protection Act, 1849. Extracts of Decrees pronounced under heads I, II, and III are prepared and issued by the Bill Chamber under head IV by the Extractor of the Court of Session. V. Bills authorising the issue of Signet Letters for various forms of diligence and execution, and Fiats in terms of the Personal Diligence Act, 1837, and the Conveyancing (Scotland) Act, 1874, and other Statutes dealt with by the Clerk of the Bills. VI. Under Codifying Act of Sederunt E.N.I. A Register of Orders of Courts having jurisdiction in Bankruptcy in England and Ireland in terms of 46 and 47 Vic. c. 52 and for or in the course of winding up a company in terms of the Companies Consolidation Act, 1908, Sections 180 and 290. In Bankruptcy proceedings, especially Petitions for Sequestration, the responsibility of examining the vouchers and evidence produced and scrutinising the proceedings rests entirely with the Clerk of the Bills and his staff, and to a modified extent this applies also to all unopposed Petitions and Applications, though the Orders are granted by the Lord Ordinary.

57,538. Are there any other matters dealt with in the Bill Chamber which are not included in that summary?—An important and responsible duty falling on the Clerk of the Bills is the determining of the sufficiency of the Caution in Suspensions and Suspensions and Interdicts, &c., passed on caution. He has also to be satisfied of the sufficiency of caution found by Interim Factors appointed under Section 14 of the Bankruptcy (Scotland) Act, 1913.

57,539. You mention that extracts of Decrees pronounced under heads I, II, and III, that is to say, in the case of Suspensions, Bankruptcy proceedings, and certain special applications, are prepared and issued by the Bill Chamber?—Yes.

57,540. But that extracts under head IV are prepared and issued by the Extractor of the Court of Session?—Yes. If you call them Junior Lord Ordinary Petitions, that will define the exception.

57,541. Why is there that different procedure as regards extracts?—The Bill Chamber in former days

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[Continued.]

was of course a separate department more completely than it is now, and when the Extractor of the Court of Session was appointed to extract all the decrees of the Court of Session, the Bill Chamber was excluded, and the Clerk of the Bills continued to prepare his own extracts. That was before the Junior Lord Ordinary Petitions were transferred to the Bill Chamber in 1889; therefore, when the Junior Lord Ordinary Petitions were transferred in 1889, the Extractor of the Court of Session still continued to extract as he had done up to that time, the decrees under those petitions, but what had been Bill Chamber work before that, that is to say, decrees falling under Bill Chamber work at an earlier date than that, continued to be extracted by the Clerk of the Bills.

57,542. You have therefore experience of two systems: in certain parts of your work you prepare the extracts yourself, and in other parts the Extractor prepares them?—Yes, that is so.

57,543. Which do you find the most convenient and satisfactory?—I do not find any real inconvenience in either. I have a larger staff than that in any other office, and I do not think it would be possible for the other offices in the Court with just two clerks to each office to prepare their extracts. With me, where I have three clerks, it is not so great a difficulty, and I have as you know a clerical assistant who does all the writing in those cases; besides, as a rule, the extracts that I have to prepare are not nearly so long as many of the extracts in the Court of Session.

57,544. Is it mainly a question of available staff, or is there any difficulty in preparing the extracts?—There is no difficulty in preparing the extracts that should not be met by any clerk of court; it would merely mean a good deal of trouble with the clerical staff.

57,545. I gather from what you have said that the work of the Bill Chamber is very varied, and some of it of an urgent character?—Yes.

57,546. I see that Lord Salvesen's Committee in their report state: "The duties of the Principal and Assistant Clerks are very varied and responsible, much more so than those of the depute clerks and their assistants in the Outer House"; do you confirm that?—Well, I think it is quite true, but I do not care to say very much about that, lest I should appear to depreciate my colleagues.

57,547. What is your present staff?—I have an Assistant Clerk of the Bills, an Ordinary Clerk of the Bill Chamber, and a Clerical Assistant.

57,548. Lord Salvesen's Committee made certain recommendations with regard to the salaries of yourself and your clerical staff; have those recommendations been carried into effect?—I think, so far as my assistants are concerned, they have been. Nothing has been done with regard to my own salary.

57,549. That committee also recommended an alteration in the hours of business; they recommended that the hours should be extended to five on ordinary week days instead of four; has that change been made?—No, but when the additions were made to the salaries of my assistants the Treasury stipulated that in the event of an increase in the hours no further addition of salary was to be expected.

57,550. Why has that recommendation as regards the hours not been carried into effect?—It can only be carried into effect by an Act of Sederunt, because the hours are fixed by Act of Sederunt; and that has not yet been passed. I anticipate that it will be done soon.

57,551. To whom would it fall to take the initiative in carrying out this recommendation?—I should fancy the Principal Clerk of Session.

57,552. It would be for him to move the Court to pass an Act of Sederunt?—It would be for him to introduce the matter to the notice of the Lord President. I think he has done so. I think the matter is being considered.

57,553. Are you yourself appointed by the Crown?—Yes.

57,554. On the recommendation of the Lord Advocate?—On the recommendation of the Lord Advocate.

57,555. How is your staff appointed?—The Assistant Clerk of the Bills and the Ordinary Clerk in the

Bill Chamber hold appointments from the Crown on the recommendation of the Lord Advocate. The Clerical Assistant is appointed by myself.

57,556. How do they stand as regards pension?—The Assistant Clerk and the Ordinary Clerk in the Bill Chamber are entitled to pension; the Clerical Assistant is not.

57,557. You yourself are entitled to pension, I suppose?—I am.

57,558. Were the Assistant Clerk and the Ordinary Clerk appointed from outside or by promotion from lower posts?—The present Assistant Clerk, Mr. Duncan, entered the Bill Chamber in 1899 as Clerical Assistant. After serving three years as Clerical Assistant he was appointed in May 1902 Ordinary Clerk, and in November 1905 Assistant Clerk; you will find that on page 57 of the Minutes of Evidence of Lord Salvesen's Committee.

57,559. And the present Ordinary Clerk?—The present Ordinary Clerk was appointed the other day by the Lord Advocate, he only presented his commission to the Court about a week ago. The former Ordinary Clerk, Mr. Carragher, died rather more than a month ago, and he had been Clerical Assistant prior to his appointment as Ordinary Clerk in January of this year.

57,560. He succeeded Mr. McLaren?—Yes, Mr. McLaren also had been Clerical Assistant before he was appointed Ordinary Clerk in the Bill Chamber.

57,561. Had the Ordinary Clerk who has just been appointed served as Clerical Assistant?—No.

57,562. Where did he come from?—He came from the outside. I understand that he was conveyancing clerk with Messrs. Duncan, Smith, and McLaren, S.S.C. Edinburgh, and had been a conveyancing clerk with them for some 16 years. He is a law agent.

57,563. What is his age?—I do not know; but I think he must be pretty nearly 40. I cannot speak about that.

57,564. Do the Assistant Clerk and the Ordinary Clerk in the Bill Chamber hold Civil Service certificates?—No.

57,565. They have direct Crown appointments?—They have direct Crown appointments.

57,566. Your Clerical Assistant is not entitled to pension, and naturally does not require a Civil Service certificate?—That is so.

57,567. Do you consider that previous legal experience is necessary for your staff?—Certainly.

57,568. Experience in a law agent's office?—Well, I think that for the posts of Ordinary Clerk in the Bill Chamber and Assistant Clerk of the Bills, with the salaries that they have now got, there should be no difficulty in securing that any man appointed to either of those offices should hold the law agent's qualification or something equivalent thereto, such as a degree in law. I think that for those offices such training is so highly desirable that it might perfectly well be made a condition of their appointment when they are entering the service. If there are other men who have not such qualifications, either serving as Clerical Assistant in the Bill Chamber or serving in other departments of the Court of Session and gaining experience in that way, I do not think that they should be excluded, because it would be a serious thing to simply block every chance of promotion to a man; but I think that when new men are entering, and if they are appointed to one or other of these offices, a law agent's qualification or its equivalent should be insisted upon.

57,569. (*Mr. Boutwood.*) I may have missed the point; what are their salaries?—The Assistant Clerk's salary begins at 300*l.* and rises to 475*l.*; the Ordinary Clerk in the Bill Chamber's salary begins at 200*l.* rising to 300*l.*

57,570. (*Chairman.*) What is the relation of your department to the Principal Clerk of Session?—We are under the supervision of the Principal Clerk of Session.

57,571. Is that under the Clerks of Session (Scotland) Regulation Act, 1889?—Yes, with the Amending Act of a year ago.

57,572. In practice what does supervision mean?—I am not quite sure that I can give you a very good instance of it. I cannot say that I have ever seen it put in force.

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57,573. In matters of discipline, for instance?—It would refer to all matters of discipline, and in such cases I know it has been exercised. Also the Principal Clerk of Session has important duties in regulating matters between one office and another in the Court of Session.

57,574. Do you mean as regards the distribution of work between the different offices?—Well, to some extent; for instance, there is one man away just now, an Assistant Clerk of Session, serving with the colours, and the Principal Clerk of Session has to arrange for that man's work being done. In a case of that kind, of course, it falls to him to make such arrangements.

57,575. In a case of that kind would he be able to draw upon your staff for an assistant?—I suppose he could. As a matter of fact, I think there is an understanding that he draws to some extent upon the judge's clerks.

57,576. (*Lord Dundas.*) I think he has taken a judge's clerk, has he not, to fill the vacancy of the man who has gone to serve with the colours?—He has done so, and I think there is some authority for doing it; but I cannot tell you that just now.

57,577. (*Chairman.*) Does the Principal Clerk of Session intervene at all in the internal arrangements of your office, in such a matter as the exact allotment of work between different members of your staff?—No.

57,578. That is entirely in your own hands?—That is entirely in my own hands.

57,579. In any grave matter of discipline would you refer to him?—Yes.

57,580. If it was a question of suspension, that is in his hands and not in yours?—Yes, in his hands under the Lord President; I think that is the way it is put in the Act of 1889.

57,581. He has power to suspend with the approval of the Lord President of the Court?—Yes.

57,582. But dismissal rests with the Court, does it not?—Yes.

57,583. Do you find the present organisation satisfactory?—I find the present organisation of my own office perfectly satisfactory.

57,584. Would there be any advantage in drawing closer the connection between your department and the other branches of the Court of Session Offices?—I do not really quite know what is meant by that.

57,585. I understand that at present promotion may take place into or out of your office from or to the other departments of the Court, but that that is an exception and not the rule?—That is so.

57,586. Would there be an advantage in treating the whole of the staff, including your office, more as a single whole for the purposes of the work of the Court?—Before the Report of the Committee on Minor Legal Appointments we felt that very strongly. When I went to the Bill Chambers in 1907, I found that Mr. Antonio, the former Clerk of the Bills, had repeatedly made representations through the Principal Clerk of Session to the Lord Advocate, on the position of his assistants; they had been appointed when they were young men at salaries which were less than had been paid to the men holding the same offices before their time; and they felt that, as things then stood, they had almost no chance of promotion, because the vacancies in the Court of Session itself amongst the assistant clerks were so often filled up by the Lord Advocate's clerk. The matter was put, I think, very strongly before the Committee, and, as the result of their Report, I believe—at least, partly as the result of their Report—the office of Lord Advocate's clerk has been allowed to lapse.

57,587. Is there at present no Lord Advocate's clerk?—Not in the sense that there was until within the last few years. The last Lord Advocate's clerk was Mr. Roxborough, who was clerk to Mr. Ure, now Lord Strathclyde; he was appointed an assistant clerk. After that, the work of the Lord Advocate's clerk—the work up in London here and the special work of Lord Advocate's clerk—was done by a clerk appointed from the Scottish Office. The first man who did that work was Mr. Ford, who is now the Keeper of the Minute Book in the Court of Session.

57,588. A clerk appointed out of the Scottish Office would, when the Lord Advocate went out of office, revert to his work in the Scottish Office, and therefore there would not be the same occasion for providing for him by an appointment in the Court of Session?—I do not know the inner workings of the thing, but that seemed to be what happened.

57,589. That change, you believe, took place in consequence of the recommendation of Lord Salvesen's Committee?—It took place after Lord Salvesen's Committee reported.

57,590. But I see that Lord Salvesen's Committee made an express exception in favour of the Lord Advocate's clerk?—Yes; but at the same time Lord Salvesen's Committee made very strong recommendations regarding promotion.

57,591. But they particularly excepted from their objections to outside appointments the case of the Lord Advocate's clerk, which seems to imply that it was a case that might continue?—I think, perhaps, I went too far in suggesting that the one was the consequence of the other; but, at all events, the appointment of Lord Advocate's clerk has not been filled up since Mr. Roxborough was appointed Assistant Clerk of Session. That, of course, does not necessarily mean that there will be promotion, but, I think, the men have hope that as a matter of fact promotion will be easier, that there will be more opportunities now.

57,592. I gather that you think it desirable that promotion should be from within the office?—Yes, I think it ought to be; otherwise, if you put a young man in there, he after a time loses heart.

57,593. You are in favour of treating the Bill Chamber Office and the other offices as far as possible as a single organization for the purposes of promotion?—Yes. The work in each office, of course, differs a little from that in the others; the work of the Bill Chambers differs quite distinctly from the work of the Outer House, but if you have a man with legal training, who has been doing work as an Assistant Clerk of Session, I see no reason why he should not be appointed Assistant Clerk of the Bills. He would have a good deal to learn probably in connection with Bankruptcy procedure and some other technical procedures that we have, but there is no reason why he should not do it.

57,594. Is there any reason why an Ordinary Clerk of the Bill Chamber should not learn the work of an Assistant Clerk of Session?—No, there is no reason. What is required for all these appointments is a good general legal education.

57,595. Your office is at the Register House?—Yes.

57,596. Suggestions have frequently been made that the offices connected with the Court would be better placed in the Parliament House than in the Register House, and Lord Salvesen's Committee made a recommendation in that sense. Do those considerations apply strongly to your department?—They probably apply more strongly to my department than to any other, because with the other departments the work comes on regularly, and you know beforehand that it is coming on; with my department there are so many urgent matters that occur in the course of a day that have to be laid before the Lord Ordinary that it would certainly be a great advantage to me; but I think for all the offices it would be an advantage if the Clerks of Court could have their rooms in Parliament Square. That, however, would need to apply to the Extractors Department, I think, as well as to the Clerks of Court, and probably to the Accountant of Courts Department, because otherwise there would be just as much inconvenience in removing processes from the Clerks of Court to the Extractor or to the Accountant, and that difficulty would counterbalance any advantage of being up in Parliament Square.

57,597. If all those departments were moved to the Parliament House, would there be any drawbacks to be taken into account in the other direction?—I suppose that some agents would feel it a little less convenient.

57,598. Why is that?—Because almost all the agents' offices are on the north side of the town, and the Register House is more convenient for the agents

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and their clerks attending in the afternoon than the Parliament House would be.

57,599. They, or at any rate their clerks, must have to attend constantly at the Parliament House?—Yes, but then the great number of interlocutors are interlocutors pronounced on the Motion Rolls.

57,600. Are you speaking now of the Bill Chamber work or of the work of the Court generally?—Both, the work of the Court generally. Those interlocutors are pronounced in the morning, and the agent or his clerk is in attendance when that is done, but copies of those interlocutors cannot be obtained then; the interlocutors have to be written and signed, and they are sent down to the Register House about lunch time, and are obtained by the agents in the afternoon. Now you see the same thing would apply, the interlocutors could not be ready in the morning when, probably, the majority of the agents would be leaving the Court, and they would have to come up or send up in the afternoon.

57,601. Are the agents not in attendance at the Court in the afternoon?—Not many of them.

57,602. (*Sir George Paul.*) If that is an inconvenience at all it is a very small one. It is as easy for most offices to send their clerks to Parliament Square as to the Register House, is it not?—Yes; it is not a serious matter.

57,603. It is not worth considering?—I do not think it is myself, but still it is just one little trouble. Some of those agents will have to do a good deal of work themselves, and they might feel it.

57,604. But it is just about as near to the Parliament House as to the Register House?—It takes, perhaps, an additional ten minutes or quarter of an hour.

57,605. Would you say as much as that?—Yes, I think so, if you allow both for going up the Mound and going down again; but I do not think it is a serious matter.

57,606. I think we may dismiss it almost?—Yes, quite.

57,607. (*Chairman.*) Is there at present an age limit for retirement?—70.

57,608. For yourself?—Yes, for myself and for the Assistant Clerk and for the Ordinary Clerk of the Bill Chamber.

57,609. That limit is fixed in the Commission?—Yes.

57,610. Do you see any reason why the ordinary Civil Service limit of age should not apply?—I do not think the age limit of 70 is too high. Take my own case. I was 45 when I was appointed. Well, 65 would be a very short period to run for earning a pension, for instance, and I think, if appointments are to be made from the outside of men who have been in practice and who have had some experience, 65 would certainly be too early.

57,611. If the normal course of appointment to the higher posts were by promotion from below, that consideration would have less force?—Yes, it would, of course, because then a man's pension would be earned from the time that he entered one of the junior offices; it would certainly have less force. But looking round the men in the Parliament House, agents, for instance, practising in the Parliament House, I do not think that 70 is too old an age to fix in the case of those offices.

57,612. (*Lord Dundas.*) Is it the case that the Bill Chamber is in activity all the year round?—Yes, it is.

57,613. I mean that even when the Court of Session is in vacation there is always, is there not, one of the judges in rotation, in Edinburgh, as Vacation judge?—Yes, that is so.

57,614. And to him the work of the Bill Chamber is brought?—Yes.

57,615. So the Bill Chamber work goes on all the year round?—Yes.

57,616. You told us that the Principal Clerk of Session exercises, or is supposed to exercise, some sort of supervision over your department?—Yes.

57,617. In practice, I suppose, he really does not interfere much with you in any way, does he?—No, certainly not.

57,618. But however that may be, would it in your view be feasible—I only ask you because other witnesses

said something about it—to put upon the Principal Clerk of Session the duties of the Principal Clerk of the Bill Chamber as part of his work; I mean practically abolishing your own office and putting it into the other gentleman's office as part of his work?—I cannot see how it could be done at all. It would really come to this, that whoever was at the head of the Bill Chamber Office itself would necessarily do the duties of Principal Clerk of the Bills.

57,619. Do you find that the duties of your office fairly occupy your time?—Yes, they fairly occupy my time as a rule. I do not say that there are not occasions when one could do more, but, as you know, in the Court the work fluctuates considerably.

57,620. No doubt. Then you told us that before you became Clerk of the Bills you were a solicitor in practice before the Supreme Courts?—Yes.

57,621. Is it your view that the Principal Clerk of the Bills ought to have been such a man—a solicitor in practice?—I think so.

57,622. Why do you think so; tell us a little about it?—You see, I found myself that the ability to understand the difficulties that an agent has in the rather technical procedure that we have in the Bill Chamber enables me to make the working of the office a good deal smoother than I think it would be if one had not from experience sympathy with the little difficulties that occur to agents in procedure, that sometimes they are not just quite familiar with. Much of our Bill Chamber practice is not of every day occurrence in most offices.

57,623. I suppose that agents, especially perhaps the smaller agents, do come to you very often for advice as to how they are to proceed in your department?—Yes, every day.

57,624. Have you found that your own experience as a practising solicitor enables you to give them advice which you could not have done if you had been a mere clerk?—That is what I mean.

57,625. Is that, to your mind, a consideration in favour of appointing the Bill Chamber Principal Clerk from the outside?—I think so.

57,626. You were asked some questions by the Chairman in regard to the possible drawing closer of connection between the Bill Chamber and the other offices. I appreciate the answer that you gave, but when you spoke of other offices, I suppose you meant other offices of the Court of Session proper?—Yes.

57,627. You were not thinking, for instance, of the Justiciary Office?—No.

57,628. Drawing together the Justiciary Office and yours in that sense would never work, would it?—I do not think so.

57,629. What do you say about the Teind Office?—The Teind Office would be another exception. I am quite sure that no ordinary clerk of Court would undertake the Teind Office work.

57,630. I understand that you think that some degree of circulation might be reasonable and feasible between clerks in your office and the ordinary clerks of the Court of Session?—That is so.

57,631. There is some little circulation at present of that sort, is there not?—Yes.

57,632. Only one other point. Do I rightly understand from you that the office of Lord Advocate's clerk has been abolished?—I do not say abolished, but it has not been filled up.

57,633. Do you mean that the present Lord Advocate is without a clerk? I am only asking for information?—There used to be a man appointed Lord Advocate's clerk with quite a substantial salary.

57,634. Take it in this way. The Lord Advocate, of course, is always a gentleman in the forefront of practice at the Scottish Bar?—Yes.

57,635. He must have had previously to his appointment a clerk of his own when at the Bar?—Yes.

57,636. It used, I think, to be the practice that he generally appointed that gentleman to be his clerk as Lord Advocate?—That is true.

57,637. Has that gone out of vogue?—That, I think, has gone out. He must still have an Advocate or

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counsel's clerk for his private work, but not a Lord Advocate's clerk in the old sense.

57,638. What has become of the clerk of the present Lord Advocate, who used to be his clerk?—He has been appointed a Depute Clerk of Session, Mr. Smart.

57,639. Is not that the latest appointment of depute clerk?—That is the latest appointment, but he never held the old office of Lord Advocate's clerk.

57,640. Was he appointed very shortly after the appointment of Mr. Munro to be Lord Advocate?—Yes.

57,641. You tell us—and I have no doubt you are right—that the post of Lord Advocate's clerk, with the emoluments attached to it that you speak of, has not been filled up since that?—I understand that that is the case.

57,642. You mentioned Mr. Ford; he came from the Crown Office?—I thought he had been appointed from the Scottish Office to do the work of the Lord Advocate's clerk.

57,643. (*Mr. Graham Wallas.*) In Lord Salvesen's Committee, Mr. Watt in his separate memorandum stated, "The principle of pooling the clerical, registry and record keeping part of the work might with advantage be extended, so as to provide that, instead of the Bill Chamber, the Extractor's Department, and Teind Office undertaking such work for their several provinces, they would be restricted severally to their expert duties, and the work of the nature described should be done for them, as for the Inner and Outer House, by a General Clerical and Registry Branch. This might help to do away with some of the nondescript posts existing in the subordinate offices." You remember that recommendation?—Yes.

57,644. Do you know whether it has ever been discussed?—No, but I do not quite see what it refers to. In the Outer House each judge has a depute clerk and an assistant clerk, that is all, the depute clerk attending in the court primarily, and the assistant clerk attending in the office; they do all the copying, all the writing that is required for their office.

57,645. But you know that in the English Department, for instance, although the department contains many branches having separate functions, there is one register for the whole department; all letters coming in are registered for the whole office?—Yes.

57,646. In the same way there is one typing department, and all documents that want copying are sent up to the typing department that is common to all sections of the office?—Yes.

57,647. Would that not be possible in your case?—There is no need for it; you must have the two men there for attendance upon the court and for the conduct of the office, and those men do all the writing that is required.

57,648. Now with regard to the appointment as Lord Advocate's clerk, I understand that in the estimates for this year there is a provision made for 350l. a year for clerical assistance for the Lord Advocate?—Yes.

57,649. That is the post you refer to, I suppose?—I suppose so.

57,650. And what I understood you to say was that in the past that salary was received by the gentleman who had been the personal clerk to the Lord Advocate when he was at the Bar, and that when the Lord Advocate left office it was then his custom to appoint him to one of the higher clerical offices at the courts, and that it hindered promotion?—Yes.

57,651. Now the Lord Advocate still has been at the Bar, and all Lord Advocates have been at the Bar, have they not?—Yes.

57,652. And they practically always have had personal clerks of their own?—Yes.

57,653. Is it not the case, then, that that simply shifts the difficulty backwards—that instead of the Lord Advocate desiring to promote his clerk when he leaves office, he would naturally now desire to promote his clerk on coming into office?—That, of course, may happen; it may work out in that way; but the personal clerk of the Lord Advocate before he took office might probably be clerk to a number of other counsel; and when he became Lord Advocate's clerk he would have

to drop the work that he had for other counsel, and therefore when the Lord Advocate ceased to hold the office of Lord Advocate he would be left stranded a bit if he did not get an appointment.

57,654. But a gentleman occupying so distinguished a post as anybody likely to become Lord Advocate would have the main services of a clerk to himself, would he not?—Not the entire services.

57,655. Now, in fact, the present Lord Advocate on being appointed did appoint his personal clerk to a highly-paid office?—That is true.

57,656. At the age of 67, I think?—I do not know.

57,657. And the effect of such an appointment in blocking promotion is precisely the same as if it took place on the Lord Advocate retiring, is it not?—It would be. As a matter of fact, this year three promotions took place. Mr. Antonio, who was Ordinary Clerk in the Inner House, was appointed a Depute Clerk in the Inner House; Mr. McLaren, who was Ordinary Clerk in the Bill Chamber, was appointed an Assistant Clerk of Session; and Mr. Carragher, who was Clerical Assistant in the Bill Chamber, was appointed Ordinary Clerk in the Bill Chamber. He died shortly after his appointment.

57,658. We were told by a witness yesterday that it was a well understood fact, with regard to the promotion in the patronage of the Lord Advocate, that if the person appointed had no personal claims upon the Lord Advocate, political claims were by tradition in Scotland recognised. Would you agree that that is the tradition?—Yes, I think that is the tradition.

57,659. The witness who said that told us very frankly what was the nature of his political claim. I do not want to ask you if you would rather not answer, but it would interest us as showing the actual working of the system, if you would tell us what in your case was the political claim?—I acted repeatedly as election agent for Liberal candidates, and I acted for many years as secretary of the West Edinburgh Division Liberal Association.

57,660. I thank you very much.

(*Sir George Paul.*) In the evidence submitted to Lord Salvesen's Committee on behalf of the Bill Chamber clerks, it was stated: "The work in the Bill Chamber has increased in recent years, and as it proceeds without intermission—there being frequently considerable pressure during Vacation, as well as many attendances outwith the office hours—an addition to the staff is required. The work is more arduous, more technical, more continuous, and demands more care than in most of the other offices, and the remuneration of the staff should be substantially increased." Is your staff sufficient?—Yes. I have no difficulty in regard to my staff.

57,661. I see in your précis you say: "With regard to my post of principal clerk, I have found my own experience as a solicitor in general practice so valuable in enabling me to appreciate the agent's point of view and his difficulties, that I am strongly inclined to think that the post should be filled from the outside." You would not make that a hard and fast rule, I suppose?—No, certainly, I would not make it a hard and fast rule, but I do not think that a man would necessarily be qualified for the principal clerkship because he had been a good assistant clerk.

57,662. Not necessarily, but it might be so?—It might.

57,663. For instance, I see that Lord Salvesen's Committee reports that your present assistant is highly competent for his duties. It might be that he was perfectly qualified to succeed you?—It might; he is a very capable man.

57,664. So I understand. I suppose, as regards your duties, that you do not know when they begin and when they end?—That is quite true, even regarding the hours of the day. I do not know when my duties begin and when they may end. I have had attendances at all hours. I think I troubled Lord Dundas once at about 11.30 p.m.

57,665. (*Lord Dundas.*) You did, and I was rather indignant.—The attendances I have had have gone on sometimes till nearly midnight.

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57,666. (*Sir George Paul.*) So that every day, in fact, it may be pretty much the same?—Not every day, but it might occur any day. I remember once getting a judge out of his bed to transact business.

57,667. That occurs occasionally, I suppose?—Yes.

57,668. That shows that your duties may never end—I mean that you cannot prescribe the hours?—Yes.

57,669. (*Sir John Kempe.*) You said that the ordinary clerk in the Bill Chamber might look for promotion to the Assistant Clerkship of Session. I see that the Assistant Clerk of Session has the same scale of salary as the Ordinary Clerk of Session. Have they different duties altogether?—I do not quite understand.

57,670. The Assistant Clerk has a scale of 250*l.*, rising by 15*l.* to 400*l.*, and the Ordinary Clerk of Session has also a scale of 250*l.*, rising by 15*l.* to 400*l.*?—The Ordinary Clerk of Session is really the Assistant Clerk of the Inner House. The Assistant Clerk of Session is an assistant clerk in the Outer House. I did not know that their salaries were the same. They used not to be, but under the new regulations it may be so.

57,671. The new scale is the same for those two?—Yes.

57,672. (*Sir George Paul.*) The Assistant Clerk in the Outer House is better paid than the Ordinary Clerk in the Inner House?—Apparently not, now; he used to be, but apparently now they get the same scale. But the Assistant Clerk of Session, and, if that is right, the Ordinary Clerk in the Inner House, have larger salaries than the Ordinary Clerk of the Bill Chamber, so that he would look for promotion to one or other of those offices.

57,673. (*Sir John Kempe.*) He might be made an Ordinary Clerk of Session, in fact?—He might.

57,674. They have the same sort of duties, so that he could take either of them on?—Yes. Of course, you understand that a man could not go into one of those offices without having something to learn; he would need to learn the particular work of the office, but he would be perfectly able to learn it in a very short time.

57,675. Are the differences in the salaries in the Bill Chamber and in the Court of Session based upon the different difficulties of the office?—I would hardly say that. Perhaps I am prejudiced, but I think that the Ordinary Clerk in the Bill Chamber has quite as difficult duties as, and perhaps more difficult duties than, the Assistant Clerk of Session; but then, of course, he always has me as Principal Clerk or the Assistant Clerk of the Bills to take the responsibility from him—to relieve him of responsibility.

57,676. Then, does the Ordinary Clerk of Court of Session have anybody to take the responsibility from him?—Not quite in the same way, because the Ordinary Clerk in the Inner House and an Assistant Clerk in the Outer House are alone in the Register House, so that they have to act on their own responsibility there.

57,677. In an earlier part of your *précis* you say: "An important and responsible duty falling on the Clerk of the Bills is the determining of the sufficiency of the cautioners in suspensions and suspension and interdicts, &c., passed on caution." Is he solely responsible; does he have the last word as to responsibility?—Practically. Certainly, since I went there, the responsibility has never been taken from my shoulders. I suppose if I refused to accept a cautioner it would be possible for the party to appeal to the Lord Ordinary and show that I was wrong and get a direction, but I am not sure that it would be competent.

57,678. You have no pecuniary responsibility if you make a mistake?—Yes. I would be responsible for any mistake in the validity of the bond.

57,679. In what way responsible; do you mean that you would have to pay up the loss?—Yes.

57,680. (*Sir George Paul.*) But not for an error of judgment as to the sufficiency of the surety?—I believe I would not be responsible for an error of judgment regarding the sufficiency of the security, but I would be responsible if there were any technical fault invalidating the bond.

57,681. If you made a mess of the bond, in fact?—Yes.

57,682. (*Sir John Kempe.*) Do you cover yourself in any way by insurance?—No.

57,683. I suppose the responsibility is not very great?—I do not feel it weighing very heavily upon me, but I think it is there.

57,684. (*Sir George Paul.*) Are these bonds of yours printed?—Yes, they are printed.

57,685. Printed forms?—Yes, but there is a good deal blank; there is a good deal to fill in.

57,686. Necessarily as to particular cases?—Yes.

57,687. (*Mr. Matheson.*) Are you satisfied with the type of man that you get for your ordinary clerks?—I have been very fortunate with the men I have had. My present assistant, who has been assistant since I went there, is a very capable man. The former Ordinary Clerk of Bills, Mr. McLaren, was an equally capable man, and my former clerical assistant was a very good man. I think my predecessor had chosen very competent men, for they all came in as clerical assistants while he was Principal Clerk.

Mr. JOSEPH CAMPBELL PENNEY, called and examined.

57,688. (*Chairman.*) You are Accountant of Court?—Yes.

57,689. How long have you held that office?—Twenty-five years.

57,690. You are a chartered accountant?—Yes.

57,691. Had you been in practice as a chartered accountant before your appointment to Accountant of Court?—Yes.

57,692. Will you tell us what the work of your department is?—It is divided into two branches, the Judicial Factory Department and the Bankruptcy Department, and it largely consists of audits of accounts.

57,693. Taking the Judicial Factory Department first, what work does that department deal with?—I have to do with curatories and guardianships: Court of Session Judicial Factories, and Testamentary Trusts, and Sheriff Court Judicial Factories.

57,694. Does the work consist in auditing the accounts of the factories and curatories that you have enumerated?—Practically controlling the management of the property of pupils, minors, absent persons, and persons under mental incapacity.

57,695. When you say controlling the management, does that mean actually managing or supervising the management by somebody else?—Supervising the management by somebody else.

57,696. Does that supervision amount to more than an audit of their proceedings?—Well, I have to discuss what shall be done with pupils and minors as regards their education, and in fact everything consistent with their well-being.

57,697. The curators or factors have to consult you on matters of discretion as well as on matters of account?—Yes.

57,698. On the question of the education of a ward you have to be consulted?—Yes.

57,699. Not merely on questions dealing with property, but questions relating to persons as well?—Yes, and the allowances to wards.

57,700. Do you also have to deal with questions of estate management, for instance?—Yes.

57,701. Questions of leasing or selling property?—Yes.

57,702. You would be consulted on such matters?—Yes, and I would report to the Court of Session on special points, such as the sale of property.

57,703. On matters of a technical character, such as the sale of property or the investment of funds, do you give your decisions on your own discretion, or do you consult experts?—I get valuations and consult experts with reference to the sale of property and also I have to report the result of my investigations to the Court, who then decide whether the property shall be sold or

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[Continued.]

not. With regard to the investment of funds, I also take special advice, if necessary, from brokers.

57,704. You are also custodian of money consigned in Court?—Yes, all moneys consigned in Court.

57,705. That is to say, in the Court of Session, I suppose?—In the Court of Session.

57,706. You have no charge of money consigned in local courts?—No, not in Sheriff Courts.

57,707. Are you responsible for the investment of money consigned?—No.

57,708. What is done with it?—It is placed on deposit receipt with the different banks.

57,709. It is never invested?—No.

57,710. Then, besides that, there is the work you have mentioned of auditing the accounts of factors and curators?—Yes.

57,711. Is that a large part of the work?—That is a large part of the work.

57,712. Is there an annual audit of all such accounts?—Yes, and there are over 2,000 different audits every year.

57,713. You mention that you submit a report each year on the dealings to the Court?—Yes.

57,714. Can you give us a copy of your last report?—Yes (*handing in the same*).

57,715. Turning now to the Bankruptcy Department, will you describe its work?—I have to superintend the conduct of all trustees and commissioners in sequestrations, to keep a register of their transactions, to report their discharges, and to receive and register the unclaimed dividends. I also audit under remit the accounts of trustees under private trust deeds and fix the trustees' commissions.

57,716. Does that refer to Trustees in Bankruptcy?—Yes, private Bankruptcy trustees.

57,717. Does the Judicial Factory Department or the Bankruptcy Department constitute the larger part of your office?—The Judicial Factory Department.

57,718. What is the staff of each?—There are five clerks in the Judicial Factory Department and five in the Bankruptcy Department, but there is also the Cashier's Department which has seven clerks, and that is largely taken up with the Judicial Factory Department.

57,719. Your total staff is 17 in addition to yourself and the principal clerk?—That is so.

57,720. To what do your duties mainly refer?—The general superintendence of correspondence, the revision of all audits, the consideration of the investment and fixing of commissions, the final adjustments and signature of reports, meetings with factors, agents, and beneficiaries, and attendance on the judges of the Supreme Court.

57,721. For what purposes do you have to attend the judges?—I report to the Junior Lord Ordinary, who frequently asks me to attend to explain points in the reports. I have also sometimes to report factors under my charge for neglect of orders, and I have to attend then to explain the reasons; and there are also questions of commission which come up under the Junior Lord Ordinary in chambers. When the different factors and myself do not agree about the amount of commission to which they are entitled, that has to be reported and I have to attend then.

57,722. That is finally decided by the judge?—By the Junior Lord Ordinary. Then in Bankruptcy I have the supervision of the progress of sequestrations, the consideration of appeals by trustees with regard to their commissions, and the revision of special reports and inventories lodged.

57,723. The duties of the clerks, I suppose, consist in carrying out audits and other minor duties under your supervision?—Yes, under my supervision.

57,724. What is the nature of your appointment; is it a Crown appointment?—Yes.

57,725. On whose recommendation?—On the recommendation of the Secretary for Scotland.

57,726. Is it in fact made on the recommendation of the Secretary for Scotland or on that of the Lord Advocate?—I should think probably the Lord Advocate for the time, I really forget now what it was in my day.

57,727. Who appoints the clerks?—I do, subject to the approval of the Secretary for Scotland, and subject also to the salaries fixed by the Treasury.

57,728. Where do you get your clerks?—I have been in the custom of getting boys by advertisement and training them up as clerks, beginning at small salaries and going on to the maximum fixed by the Treasury, 150*l*. I find that is the fairest and best way for the office.

57,729. Are your staff entitled to pensions?—Some of them.

57,730. How many?—Seven.

57,731. Do you appoint in the first instance to your unestablished staff and fill your established posts by promotion from the juniors?—That is so.

57,732. At what age do you get boys to come in?—About 15 to 16.

57,733. That is to say, directly after they have left school and before they have had any other experience?—Generally, yes.

57,734. What is your opinion as to competition as a means of selecting your staff?—I think it would hardly work. I do not think the office is big enough, vacancies are rare.

57,735. It would be possible, would it not, to have competition in combination with competition for other offices of a somewhat similar character?—In Scotland, do you mean?

57,736. Yes?—Yes, it might.

57,737. As you do not require any previous professional experience of any kind for boys who enter your office, there would be no difficulty on that head in recruiting by competition?—No, none.

57,738. Have your established staff to obtain Civil Service certificates?—Yes.

57,739. Do you know whether those are given under Clause 7 of the Order in Council?—That is so; they have all been passed in without examination on a special certificate.

57,740. Is a knowledge of Scotch law required for the work?—A knowledge of Scotch law is most necessary.

57,741. How do the boys who are appointed under the present system acquire that knowledge?—I make them attend the Scotch law classes in the university, and they also attend evening classes of a technical nature, such as chartered accountant apprentices have to attend, and as they gradually work up in the office they learn the work.

57,742. You require, of course, boys who are able to become capable accountants?—Yes.

57,743. How do you test their qualifications when you select them?—I get their school reports, and I also get certificates from their schoolmasters; and I must say that I have been very fortunate in the boys I have got. I select them from a number after seeing them personally, and they have turned out very well.

57,744. Then you are satisfied with the present method of appointment?—Yes.

57,745. But do you prefer the present method to a system of competition?—Yes, if my suggestions as to slight increases in some of the clerks' salaries were given effect to.

57,746. What are the hours of business at present?—Seven—from 9.30 to 4.30.

57,747. The staff attend regularly during these hours?—Yes.

57,748. Is there a full day's work for the whole of your present staff?—Yes, a full day.

57,749. What holidays do they have?—They get a month and the usual public holidays.

57,750. Is the work fairly evenly distributed over the year?—Yes, the audits fall at four terms in the year—the four quarters—so that it is distributed over the whole year.

57,751. Is there any age limit for the retirement of your staff?—There is no age limit.

57,752. Do you think there ought to be one?—Yes, I do.

57,753. Is there any reason why the ordinary Civil Service limit should not apply. That limit, as you are aware, is 65, with power of extension in exceptional cases up to the age of 70?—Yes, I see no reason why it

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[Continued.]

should not apply, except that the salaries should be increased a little if there is to be a limit.

57,754. Looking at the question of a limit by itself, you think the Civil Service limit would be suitable?—Yes, I think so.

57,755. Have you any suggestions to make as to any modifications in the organisation or arrangement of your office?—It is 20 years since the Treasury fixed the present arrangement, and I think the time has now come for some change in it. In the suggestion I put in my précis I note that there are seven permanent clerks, and I think the permanent clerks should be increased to 12—that means increasing the permanent salary list and decreasing the grant made to me for supplying outside clerks.

57,756. (*Mr. Matheson.*) How many clerks, as a matter of fact, have you besides the seven?—There are 18 altogether including the head clerk—that is 11.

57,757. (*Chairman.*) The 18 includes two boys and two female typists, does it not?—Yes.

57,758. Apart from them you have 14?—Yes.

57,759. Of whom seven are at present established?—Yes.

57,760. And you suggest that five more should be established?—I suggest that 12 altogether—five more—should be established.

57,761. Are the five who you suggest should be established the two unestablished in the Judicial Factory Department, and the three unestablished in the Bankruptcy Department?—Yes.

57,762. Leaving two unestablished clerks in the Cashier's Department?—Yes.

57,763. What are your reasons for suggesting that change?—If there is to be an age limit, I do not think the present salaries are adequate, and I think you get more work and better work out of a man who knows that his salary will go on increasing by small amounts, and that when he retires he will get a pension.

57,764. When one of your unestablished clerks is promoted to an established post, his service for pension counts from the date of his promotion and not from the date of his original appointment, I suppose?—I hope it will be from the date of his original appointment. We have not had an opportunity of testing it yet.

57,765. You have not any clear decision upon that point?—No; but it would be very unfair if he only got it from the date of his getting a permanent appointment.

57,766. At what age have recent appointments to the established staff been made?—The last was one who was appointed at the end of last year owing to the death of an established clerk.

57,767. What was his age?—39.

57,768. Is there any substantial difference between the work done by established clerks and that done by unestablished clerks?—The established clerks do the more important work; for instance, the bigger audits.

57,769. (*Mr. Boutwood.*) Why should not the whole of your staff be established?—I see no reason why.

57,770. You have 14 clerks, and you propose to establish 12 of them?—Yes.

57,771. I wondered why you left out the two?—The reason was that I propose to abolish these posts as they fall in.

57,772. So that in future the whole of your staff should be established according to your view?—I hope so.

57,773. (*Chairman.*) You say in your précis that while the differences of Scotch law procedure may make it impossible to bring the department entirely within the lines of the regular Civil Service, it would be advisable to place it as far as possible under Civil Service rules with regard to the salary, hours of service, sick and other leave, superannuation, etc. Why do the differences of Scotch law procedure make a difficulty as regards bringing it within the lines of the regular Civil Service?—I refer there to the entry of the ordinary Civil servant in the second division of the Civil Service.

57,774. But your boys learn all they know about Scotch law after they enter the department at present?—Yes.

57,775. Would there, therefore, be any difficulty in recruiting by a different method boys who would equally

learn all they know about Scotch law after entering the department?—None, if they were of the same age.

57,776. And as good material as the present?—Yes, and as good material; but I think the present second division Civil servant starts at about 18 with a salary of 70*l.*, and goes on by increments to 190*l.*

57,777. You would prefer to recruit them rather earlier, as you do at present, at 15 or 16, and to continue their education after they have entered?—Yes; and besides, my boys start at 15*l.* A second division Civil servant starts at 70*l.*, and I think he would be dear at the money for the first three or four years.

57,778. Do the boys work the full seven hours a day?—Yes.

57,779. And also during the evening?—Yes.

57,780. You do not find that a full day's work interferes with their educational work?—No, they get away for one of the seven hours for the college Scotch law classes.

57,781. You mention also in your précis that provision might be made for a deadlock in promotion. I do not understand what that refers to?—I was afraid it would be a little unintelligible. I think that if there is no promotion for a clerk in the Civil Service, but he has been for a certain number of years in the Service, by a special order he is promoted to a higher grade.

57,782. You would like to see some provision of that sort?—Yes. With us promotion is very slow.

57,783. (*Sir John Kempe.*) With reference to the duties that you have in your office, you said that you had to look after minors' education, and so on; is that incidental? I suppose originally your appointment was as accountant only; has the rest of the work grown up because of the convenience of your looking after the children as well as their money?—Yes.

57,784. Will that be continued to your successor?—Yes.

57,785. Is there no Court superintendence or anything like the Court of Chancery?—I am practically the Court of Chancery in Scotland.

57,786. There is nothing over you?—No.

57,787. If you did not undertake the duty the children would not be looked after at all?—There is no one except the factor, who has charge of the property, he would be the only person who would do so.

57,788. Then nominally you look after the factor, not after the children; you have to see that the factors and guardians do their duty?—Yes.

57,789. It resolves itself into your looking after them, practically, and consulting them?—Yes.

57,790. (*Chairman.*) Is there no appeal from you to the Court?—Yes, there is an appeal.

57,791. Supposing that a factor did not agree with what you thought proper to do for a ward, he could appeal to the Court?—Yes.

57,792. Does that appeal go to the Junior Lord Ordinary?—Yes.

57,793. (*Sir John Kempe.*) Can you tell us how many wards you have?—I do not think I could say in numbers exactly, but I have a great many.

57,794. (*Sir George Paul.*) Pupils, minors, and lunatics are all under your charge?—Yes.

57,795. I suppose it is mostly with reference to the allowances that you give that you have charge of them; you have no charge of their persons?—No; I have no charge of their persons, but I have a kind of hold over them because of the allowances.

57,796. Because you keep the purse; you have the power of the purse?—Yes, because I keep the purse.

57,797. Then as regards promotion in the superior offices, have you always been able to fill them up by promotion?—Yes.

57,798. So that you have never had to go outside?—I have never had to go outside.

57,799. Except for the juniors?—Yes, except for the boys.

57,800. And you find out about them, after they have left school at the early age of 15 or 16, from the schoolmasters, just in the ordinary way, and you satisfy yourself with regard to them?—Yes, I advertise, and get a long list of applications. I choose those whom I consider the best and make inquiries about them, and just gradually sift them down to the best.

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[Continued.]

57,801. So that on the question of competition, it would be simpler to have competition for the junior posts, and more naturally among the boys, before they began to specialise?—Yes.

57,802. In what department do you put the boys? I see they are listed as beginning at book-keeping?—Yes.

57,803. Then, if they are satisfactory, they might have an appointment in the Bankruptcy or the Judicial Factory Department; that is how you work it?—Yes.

57,804. As regards a knowledge of Scotch law, I suppose for an ordinary chartered accountant you require a certain amount of knowledge of Scotch law; your clerks go to the classes, do they, just as if they went in for the ordinary accountants' examination?—Yes, I try to follow the accountants' preparatory examination as much as possible.

57,805. But you send your boys to college?—Yes, to the university.

57,806. To learn Scots law. What classes do they attend?—The Scots law classes; they are generally just kept at them; these are the most important classes.

57,807. You see that they attend that and know something of Scots law?—Yes.

57,808. You have no examination of them afterwards, such as accountants have?—No. I tried to introduce the system of taking apprentices who would pass the Chartered Accountants' examination ultimately, but the Chartered Accountants Society objected; they said I had no right to do it; so I only succeeded in having one.

57,809. (Mr. Graham Wallas.) Do you know that we proposed in an earlier report to create a class of clerks who would be called the junior clerical class, who were to begin at 50*l.* a year and mount up by rather slow degrees to 200*l.*? Would that class fit your office, do you think, better than the class which is now called the second division?—It might, except that I would have the same objection, that 50*l.* is too much to pay for a commencing salary.

57,810. Boys in Edinburgh are rather more frugal in their life than in London, you think?—Yes.

57,811. What is your relation in financial matters to the King's Remembrancer. You have this large balance over which you have a certain amount of control, twelve millions; what is your relation with regard to that great sum of money to the King's Remembrancer?—Nothing to the King's Remembrancer. These twelve millions which I have to supervise are the investments and the value of hereditary property held by all the different factors under my supervision.

57,812. Then what is your relation to the British Treasury in that matter; you have direct contact with the Treasury as regards this sum?—This money is retained in the hands of these different factors; it does not come before the Treasury at all. The only thing I have connection with the Treasury in is in the handing over of unclaimed dividends and consignment receipts after seven years' retention.

57,813. You are responsible to a certain extent for the treatment of lunatics with property, are you not?—Yes.

57,814. How do you ascertain how their treatment is carried on; have you any inspectors to aid you?—No, I do not do that, but there is a Board of Lunacy in Scotland who attend to that, and I am in contact with them. If I think there is any case in which the ward is not being sufficiently supplied, that he is not getting well enough looked after, I report to the Board.

57,815. But how do you ascertain that—from common report—or how do you ascertain whether a lunatic, perhaps at the other end of Scotland, is being sufficiently looked after?—His accounts come before me for audit every year, and I take the amount that is spent on his maintenance and compare it with the amount of his income; and if I think that more might be favourably expended on him I make inquiry.

57,816. Then the Lunacy Board would send down one of their inspectors and satisfy themselves on that point?—Yes.

57,817. (Lord Dundas.) You are an officer of the Court, are you not?—Yes, I am.

57,818. And as such, you are directly responsible to the Court?—Yes, I am.

57,819. But as such an officer, you exercise supervision over the various classes of estates that you have mentioned to us?—Yes.

57,820. You have charge really of the estates and not, except indirectly, of the persons, have you not?—That is so.

57,821. Among other estates you look after, I understand, are those in the hands of what is called *curator bonis* in Scotland, namely, one who looks after the estate of a mentally unfit person?—Yes.

57,822. Or a factor *loco tutoris*, one who looks after the estates of minors or pupils?—Yes.

57,823. Or a factor *loco absentis*, who looks after the estate of someone who is away or cannot be found?—Yes.

57,824. Then, of course, there are numerous what we call judicial factors, who are persons appointed by the Court where trustees have been superseded by the Court and such like?—Yes.

57,825. I dare say there are other estates of the kind that you could mention if necessary?—Yes.

57,826. But in regard to all of these, you are directly subject to the control of the Court?—Yes.

57,827. (Chairman.) Besides the estates in the hands of factors which you supervise, you mention that you yourself are custodian of moneys consigned in Court?—Yes.

57,828. In that case you are dealing with the money yourself, not supervising somebody else who deals with it?—That is so.

57,829. To whom are you responsible in respect of those moneys?—They are deposited in the bank in my name as Accountant of Court, and I am responsible to the Court in so far as these cannot be uplifted except by Order of Court.

57,830. Does anybody audit your accounts in respect of those consignations?—No.

57,831. You are not responsible to anybody except the Court?—No.

57,832. There are no accounts, except the mere fact of deposit and ultimate withdrawal of deposit?—That is all.

57,833. Is there no accounting for interest on deposits?—The bank accounts for interest on deposits when they get an Order from the Court authorising a sum to be paid with interest.

57,834. In the meantime it merely accumulates?—It just accumulates.

57,835. (Sir George Paul.) Under one of the Judicial Factors Acts trustees have power to place the audit of their accounts under the supervision of the Accountant of Court, have they not?—Yes.

57,836. Is that done to any extent?—I am sorry to say not to any extent.

57,837. Perhaps less as regards numbers than as regards amounts?—Yes, the numbers are few, I think only about 20 or 30, but the amounts are large—several estates of nearly a million.

57,838. Important trusts?—Yes.

57,839. But not the small trusts so far?—No.

57,840. (Lord Dundas.) Can you not give us even a rough estimate of the total number of factories that you have, just to give the Commission some sort of idea?—I have over 2,000 factories, as they are called, that is to say, there are 2,000 different men who have to report to me every year. They send in annual accounts, and I have to audit their accounts.

57,841. (Chairman.) Those accounts have to be audited every quarter or every year?—Every year; but I have divided them so that so many come in each quarter, so as to spread the work. Then on these 2,000 audits I have to report to the Court; on every audit I lodge a report with the Court.

57,842. Is that report contained in this printed volume which you have handed in, or is there a separate and detailed report as well?—The report is not in that volume.

57,843. This is merely a summary?—Yes, just a summary of the different estates.

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[Continued.]

57,844. (*Sir John Kempe.*) I suppose, in the case of those estates where you pay the money into the bank, there is nothing to be done with the money at all; it is merely resting?—Only resting until it is settled to whom it shall go.

57,845. (*Mr. Graham Wallas.*) Into what bank do you pay that money?—One of the Scotch banks. I practically do not pay it in myself; it is paid in by the person who holds it.

57,846. Who is responsible for the choice of the bank into which the money is paid?—The Acts direct it to be paid into any of the banks in Scotland established by Act of Parliament or Royal Charter.

57,847. Who decides which of the five special banks shall receive the deposit?—I think that is done just by the agent of the party who has the money; so long as it is one of the special banks it does not matter which bank it is.

At the North British Station Hotel, Edinburgh.

ONE HUNDRED AND THIRTY-EIGHTH DAY.

Wednesday, 9th June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.
Sir DONALD MACALISTER, K.C.B.
Sir JOHN ARROW KEMPE, K.C.B.
Sir GEORGE MORISON PAUL.
Mr. ARTHUR BOUTWOOD.

Mr. JOHN ROBERT CLYNES, M.P.
Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Dr. DAVID MURRAY, LL.D., called and examined.

57,848. (*Chairman.*) You are a law agent and conveyancer, practising in Glasgow?—I am.

57,849. What is your firm?—Maclay, Murray & Spens.

57,850. You are also a member of the Faculty of Procurators in Glasgow?—Yes, I am.

57,851-2. You are giving evidence on behalf of that Faculty?—Yes.

57,853. You were also a member of Lord Low's Committee on Land Registration in 1897?—Yes.

57,854. The evidence which you are prepared to give to-day relates specially to the Register House Departments?—Yes.

57,855. And more particularly to those which relate to the registration of deeds concerning land?—Yes.

57,856. At the head of those departments there is the Deputy Clerk Register?—Yes.

57,857. The Deputy Clerk Register at present also performs the duties of Registrar-General for the purposes of the registration of births, deaths, and marriages?—Yes.

57,858. Do you consider it right for those functions to be combined with the other functions of the Deputy Clerk Register?—I think that the position of registrar of births, deaths, and marriages is entirely foreign to the duties of the Deputy Clerk Register. Personally, I think they would be better separate.

57,859. We had evidence from one witness, the King's and Lord Treasurer's Remembrancer, that the work of the two offices was, in his opinion, not more than could be performed by one man, and in his view it was convenient that the two offices should continue to be combined?—From that point of view I agree. I do not think that the duties are more than can be undertaken by one man, but the two classes of duties are very different. The Deputy Clerk Register is the representative of the office of the Lord Clerk Register, which was a great office of State in Scotland and charged with entirely different duties. There is no doubt that the two things can be carried on as they are now, but I would be inclined to say that the register of births, deaths, and marriages should be under a separate officer. If they are carried on in the Register House, then the Deputy Clerk Register would necessarily exercise control, but I do not think he should be the registrar. I understand that the present arrangement has arisen entirely from the

monetary side; it is a question of salary and economy.

57,860. Given that the two functions can be performed by the same person, they are not incompatible with one another, and there might be economy?—That is so.

57,861. Your suggestion is that it would be better to have a separate officer of lower rank specially charged with the work under the supervision of the Deputy Clerk Register?—Yes. For instance, I think the previous Deputy Clerk Register, Sir Stair Agnew, used to sign certificates himself, but now they are signed by the chief clerk. That is an illustration of the suggestion that an officer of lesser rank might really be the registrar.

57,862. Turning to the Register House Departments proper, we may take it that those include the Sasine Office, the Register of Deeds, and the Record Office? Yes, they do.

57,863. The Commission have had evidence as to the work done at the Sasine Office, the system of registration in general, and the staff by which it is performed. I understand that the points on which you wish to make observations are in particular the system of control of the Register House Departments and their relations to the various authorities?—That is so.

57,864. I find that in the Report of Lord Low's Committee the history of the control of these offices, and in particular of the Sasine Office, is set out fully and in detail, and is summed up in a paragraph which I will read: "We find that under the existing law the control of the Sasine Office is vested as follows:— (1) In the Treasury lies the power to fix the number of the staff, their salaries and emoluments, under the Acts of 1817, 1868, and 1879, and also to fix the fees in the Sasine Office under the conditions laid down under Section 25 of the Land Registers Act, 1868. (2) In the Secretary for Scotland is vested the disciplinary control of the Keeper and his staff. (3) In the Deputy Clerk Register the powers in Sections 9, 10, 20, and 24 of the Act of 1868 as regards the forms of indexes and abridgements, and of direction and initiation, as well as the general powers and superintendence in use to be exercised from early times by the Lord Clerk Register under control of the Court. (4) In the Court of Session in so far as its original powers have not been taken away by the

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"Act of 1868." May I take it that that is a correct summary of the present position as regards the control of the Sasine Office?—Yes.

57,865. To make it complete it would perhaps be well to state the system of appointment. At present are all the appointments made by the Secretary for Scotland?—I think so far as regards the Sasine Office the Keeper of the Register of Sasines should have a large say in the appointment of his own staff.

57,866. I was asking, in the first place, as to the existing system. Is it the case that appointments, except so far as they are made by Civil Service competition, are in the hands of the Secretary for Scotland?—Yes.

57,867. They were originally in the hands of the Lord Clerk Register, and were transferred from him to the Treasury in 1879, and from the Treasury to the Secretary for Scotland when the Secretary for Scotland was created in 1885?—Yes.

57,868. At present the system is that the appointments are in the hands of the Secretary for Scotland except so far as they are made by open competition?—Yes.

57,869. That applies also to promotions, I understand?—Yes, I think so.

57,870. Do you suggest that the Keeper of the Register of Sasines ought to have a larger degree of control of appointments in his office?—Yes, I think so. The Keeper is the person who really knows what is required, and I think he should have a large say in the appointment of the senior officers at any rate.

57,871. I suppose, at present, the Secretary for Scotland would undoubtedly consult the Keeper?—I am not in a position to say, but I presume that he does.

57,872. Turning again to the question of control, I find that Lord Low's Committee made certain recommendations in which, as a member of the Committee, you concurred?—Yes.

57,873. Perhaps it will be convenient if I read those in order that they may be before the Commissioners. "We beg to recommend:—

"(1) In any Bill which may be introduced to effect improvements in the system of registration there should be embraced only the larger and fundamental provisions for which specific legislation is indispensable, leaving the details to be regulated from time to time by Act of Sederunt.

"(2) The general powers of control of the Court of Session and the Deputy Clerk Register should be expressly recognised, and power should be given to the Deputy Clerk Register at his own instance to apply to the Court for direction in any circumstances of doubt or difficulty as to the working of the Lands Rights Registration system.

"(3) The power to fix the number of the staff and their remuneration should remain with the Treasury.

"(4) The Court of Session should have similar powers to those conferred by Section 2 of the Courts of Law Fees (Scotland) Act, 1895, to alter or otherwise regulate by Act of Sederunt, with the approval of the Treasury, the amount of any fees for the time being payable in the Sasine Office, including the Horning Office, and also in the Record Office.

"(5) The disciplinary control of the staff of the Sasine Office should remain in the Secretary for Scotland."

Do you still adhere to those recommendations?—I do.

57,874. The position then, if those recommendations were fully carried out, would be that the Court of Session would have general control as regards the system of registration, the form of the Register, and other matters of that kind?—That is so. I think that is absolutely essential. The registration system has all along been under the control of the Court of Session.

57,875. Some doubts have been raised as to whether the Act of 1868 took away to some extent that power of control?—Yes, that arose in 1875. The chronological arrangement of entries according to the properties concerned, known as the Search Sheet, had been introduced, and the Deputy Clerk Register had doubts as to whether the Search Sheet could be carried on in the Sasine Department. After taking advice he consulted the Court, and laid them atter before the late Lord President Inglis.

The Lord President consulted the judges, and they came to the conclusion that certain sections in the Act of 1868 had interfered with their powers, and the Court did not see their way to deal with the matter in the manner the Lord Clerk Register had suggested. There was ultimately what might be called a compromise. The Court appointed a Committee of their own members to investigate the matter, but it was on the distinct understanding that they were not exercising their old functions. It did not eventuate in an Act of Sederunt, which is the method by which the Court of Session gives effect to its orders in matters of this kind. There was simply a report.

57,876. The Lord President informed the Lord Clerk Register that the Court would recommend him to adopt certain measures, and if he issued orders or regulations carrying out those measures, then these would have the approbation of the Court?—I think that was the recommendation. I do not remember the exact result, but what did happen was this, that two judges reported, and one took one view and the other took another view. The Search Sheet was introduced experimentally on their recommendation, and nothing further has ever been done. The Lord Clerk Register never went back to the Court after the experiment, so it simply stands in 1915 as it did in 1875.

57,877. Your recommendation is that legislation should be passed making clear the control of the Court of Session in these matters?—Yes, making it clear that the powers of the Court of Session are not taken away. I would go further, and in any Act of Parliament I would emphasise the powers of the Court of Session and put it beyond dispute what their powers are.

57,878. The next authority concerned is the Deputy Clerk Register?—Yes.

57,879. What, in your view, should be the exact functions of the Deputy Clerk Register in connection with the Register of Sasines?—The duties are defined in the Acts of 1868 and 1879 to a large extent. The Deputy Clerk Register is the head of the Registration Department, and in details of the working of the system, such as the preparation of indexes and so on, the Deputy Clerk Register is the person who must finally decide upon those matters.

57,880. Then I presume in all such matters he would be intermediate between the Keeper of the Sasines and the Court of Session?—That is so.

57,881. He would decide matters so far as they are within his own competence, and if he thought they were beyond his competence he would approach the Court of Session?—Yes. There is a very good illustration in 1811. Mr. Thomas Thomson, who was then the Deputy Clerk Register of Scotland, made very valuable reports on the records and these were sent annually to the Court of Session, amongst other bodies, and the judges generally appointed a committee to consider Mr. Thomson's reports. Mr. Thomson in 1811 made certain recommendations to the Court as to the carrying on of the registration work of the Register of Sasines and in the Register of Deeds and some other branches, and recommended certain things to be done. It was brought before the Court, and the Court then made four Acts of Sederunt in 1811 which have regulated the whole administration of these departments down to now.

57,882. In your opinion that is the proper procedure to be followed?—Yes. There are certain troubles of which we complain at the present moment which would have been entirely avoided if that procedure had been carried out.

57,883. The third authority concerned is the Secretary for Scotland. What in your view should be his measure of control?—Nothing further than the matter of discipline. He ought not to interfere in any way in the carrying on of the work of any of the departments—I think that is entirely outside his jurisdiction. The Lord Clerk Register of Scotland should supervise the whole work of the Register House.

57,884. You would confine his authority to questions of discipline and questions of appointment except so far as you would in matters of appointment increase the powers of the Deputy Clerk Register?—Yes.

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57,885. The fourth authority concerned is the Treasury?—Yes.

57,886. At present the Treasury has power to fix the salaries and the numbers of the staff?—Yes.

57,887. Are the fees at present fixed by the Treasury?—The fees are fixed by the Treasury, but subject to the approval of the Court and some other bodies—they are defined in the Act of Parliament—but in point of fact the fees are fixed by the Treasury.

57,888. Your recommendation is that the fees should be fixed by the Court with the approval of the Treasury?—Yes, the Court ought to regulate them, for this reason, that the Court won't fix fees—they do not do it in practice—without consulting those who are interested and who pay fees, namely, the legal profession. In other cases the Court ask the opinion of the profession as to fixing or altering fees. All persons would be heard, and thereafter it would lie with the Treasury to approve. The Court might fix fees that were open to question from an administrative point of view, and therefore the Treasury ought to have a say in the matter.

57,889. There is one point as regards the system of control on which I should like to know your opinion. Do you consider that the Deputy Clerk Register ought to have any say in the matters which are controlled or would be controlled on your recommendation by the Secretary for Scotland and the Treasury? In reporting to the Secretary for Scotland on matters of discipline and matters of staff and salary, should the Keeper of Sasines send his report to the Deputy Clerk Register or direct? In other words, should the Deputy Clerk Register's control of the subordinate departments of the Register House extend to all matters, or only to certain matters?—That is a difficult question to answer. It certainly ought to go through the Deputy Clerk Register, but I do not know that he should have anything to do with mere conduct of an official. If the Secretary for Scotland appoints him, perhaps it lies with the Secretary for Scotland to deal with the matter; but the Deputy Clerk Register is a great assistance in the administration of the Register House. I would not like to say how far his control should extend as regards the minutiae of the matter. He should have a general control.

57,890. At present the degree and the nature of his control are somewhat indefinite, and the mere fact that they are indefinite has led, we understand, to some differences of opinion and some friction in practice, and therefore it appears desirable that the exact nature of the control should be defined. We should be glad to have your views as to what that definition should be?—There was a question before the Court quite recently; it came up as a judicial question, and I think that probably it was a mistake that it should come before the Court in that way. The question was as to the right of the Keeper of Sasines to reject a writ. The view of the profession is that the Keeper of the Register of Sasines is obliged to put on record everything that is presented to him. There are certain statutory formalities, of course, that must be observed. The deed must have a warrant of registration. If it had not, or if the deed was insufficiently stamped, the Keeper of the Register of Sasines is probably entitled to reject that writ, but he is not entitled to inquire into the substance of the writ, and that is what arose in this particular case. In that case my view is that what ought to have been done was that a statement should have been made to the Deputy Clerk Register. The person who gave in the writ, and with whom the question arose, did not go to the Deputy Clerk Register: he went straight to the Court and raised a common law action to have the Keeper compelled to register the writ. I think that was wrong. He ought to have gone to the Deputy Clerk Register and made his complaint, and if the Deputy Clerk Register had then doubts he should have consulted the Court, and the Court would have dealt with the matter after hearing parties, not judicially, but in their position as the controlling body. I do not know how we are to make that much plainer. I think the law is quite plain as it stands, and that the Keeper was wrong in his rejection of the deed. It was a pretty mixed case.

57,891. (*Sir George Paul*.) I think the Court found that the Keeper was justified?—Yes, but the Court put it in rather a curious way. The Court seemed to hold that this was an ambulatory deed, as they called it, and on that ground it was incompetent to take sasine upon it. They decided in favour of the Keeper.

57,892. (*Lord Dundas*.) The Court was right in result, was it not?—Yes, but you see the Court pronounced a judicial opinion on this matter which, I think, rather upset the position. If the matter had been dealt with by the Deputy Clerk Register and by his getting the opinion of the Court, that would have been different from giving a judicial finding. The question arose out of the Search Sheet; the deed would not have been rejected but for the existence of the Search Sheet. The Keeper of the Register of Sasines did not know under what particular property to enter this deed, because he thought it did not give sufficient information, but the deed was perfectly sufficient as a warrant for sasine. Undoubtedly, if the deed was of an ambulatory character, as the Court indicated, the title that the grantee got might have been defective, but that was because the warrant was defective. There was no reason why sasine should not be taken upon it for what it was worth. The Keeper of the Register of Sasines could not identify the property. In my view he had nothing to do with identifying the property. There was a Bill introduced in 1871 to compel the ingiver of a deed to give certain information for the purpose of identifying the property. That was objected to by the whole of the legal profession, and the Bill was withdrawn, and nothing else has again been done in that direction. The Deputy Clerk Register, in my view, was entitled to deal with the matter, and he could have done so perfectly well.

57,893. (*Chairman*.) That is the point with which this Commission is concerned. I gather your view is strongly that the direct controlling authority is the Deputy Clerk Register, and questions of the kind you have described should go to him before they go to the Court of Session?—That is my view.

57,894. (*Sir Donald MacAlister*.) Suppose the Keeper refuses another writ; suppose the Deputy Clerk Register says, "I should like to have a say in the matter"; suppose he goes to the Court of Session, as you suggest is the proper method, for an instruction: will the Court of Session not find itself up against its own judicial decision?—They may, but I do not think so. I do not think the decision goes so far as it seems to do. The Court might come against that, and that is one of the reasons why I think it is undesirable for the Court to deal judicially with the matter.

57,895. (*Chairman*.) Turning now to the question of appointment, the Deputy Clerk Register and the Keeper of the Register of Sasines are appointed by the Crown?—Yes.

57,896. Do you consider that in the case of the Keeper of Sasines professional qualifications are desirable?—I am very strongly of that opinion. It is only a thoroughly competent practising law agent that ought to be appointed to the office.

57,897. At present there is no statutory qualification of that kind?—No.

57,898. As a matter of fact, have the persons appointed always possessed the qualification that you think necessary?—Yes. One of the Keepers of the Register of Sasines was John Clerk Brodie, and he was one of the most eminent men in the profession of his day.

57,899. Have political considerations entered into the appointments in the Register House Departments in the past?—I am afraid they have. I think the appointment of the Keeper of the Register of Sasines has been pretty much a political one.

57,900. That is a point which has been raised before the Commission by the evidence of several witnesses, and we should like to have your views on it?—I do not think anyone can seriously dispute that an office of that sort is entirely outside politics. The view that because a man has been the political agent of some important person he should therefore be appointed to an office in the Register House is entirely out of date, and I do not think anyone would be found to uphold it.

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57,901. We have been told that such appointments, although theoretically made on the recommendation of the Secretary for Scotland, are in practice made on the recommendation of the Lord Advocate?—I should think that is the case. That was the method of appointment prior to 1885—the Lord Advocate made all the appointments, but they were political appointments.

57,902. Do you think that the abolition of the political system of appointment would be facilitated by any change in the method of appointment?—I should like to say as regards political appointments that there has been no objection to any of the holders of the office; they have been all competent men, although the question of political services may have entered into their appointment. It is not to be suggested that because a man has been appointed from political considerations he is therefore not a fit occupant of the office. I think all the appointments have been good, but the general feeling of the profession is that this particular element should not enter into the question of selection.

57,903. The staff of the office, apart from the head, is at present selected by competitive examination, the candidates being required to possess certain qualifications?—So far as I know in the Register House the examination as regards professional knowledge is very slight—I do not think it amounts to much.

57,904. Can you judge whether the results are satisfactory?—The work of the office is carried on satisfactorily.

57,905. The staff is competent for the work?—The work of the office is satisfactorily done. Of that there is no question.

57,906. Are you prepared to express an opinion as to whether the method of selection by examination should continue?—I do not think that the examination is worth while—no amount of examination will ascertain whether a man is fit for the duties of the Sasine Office. What is required is a considerable knowledge of, and experience in, practical legal work. He must have a certain amount of legal training. The practical knowledge acquired by practice in business is much more valuable in the Sasine Office than any examination in the elements of law. The man must have a considerable amount of technical knowledge of conveyancing. A graduate in law has the theoretical but not the practical knowledge.

57,907. In the case of your own office, do you take clerks in young and practically educate them in the office?—Some are brought in as apprentices, but not the whole. These come already trained.

57,908. They acquire their professional knowledge in the office?—Yes. Of course they have all to attend University classes, and a very considerable number of them are graduates in law. To be a graduate in law they must first of all hold the degree of Master of Arts, and then they graduate as Bachelor in Law, but the graduate in law is often not better than his neighbours. All must have a certain amount of University education in law. Some graduate, others do not. It is often a question of time.

57,909. In the case of the Sasine Office, do you think that the professional knowledge required there can be acquired in the same way, or is it desirable that men admitted to the office should first have some outside knowledge?—I think they should have some outside training. The sort of people who should be appointed are conveyancing clerks, men who carry on that work under the supervision of the head of the department in an ordinary law office. These men have an intimate knowledge of all the details that are met with, and that is the sort of knowledge that is wanted in the Sasine Office. The deed has to be read when it comes in and a minute is required to be made of it. The minute is an abstract, and it requires a considerable amount of knowledge to put it correctly. The value of the Sasine Register depends on the accuracy of the minute. There are two records, the abridgement and the minute. The abridgement was introduced by Mr. Thomas Thomson. The minute book and the abridgement were originally distinct, but now the minute book and the abridgement are the same. The deed, when it comes in, is abstracted and a minute is made of it, and

two copies are kept. The one is called the abridgement and the other the minute book. These pass into the Deputy Clerk Register's office and are the foundation of searching. All searching is done through the abridgement, and upon the accuracy of the minute or abridgement depends the accuracy of the search. It is most carefully gone over in the Sasine Office, checked and re-checked, but the initial stage is the drafting of the minute, and that requires a man of some capacity and experience.

57,910. (*Sir George Paul.*) It is very well done as things stand?—Yes. No matter where the man came from, whether he was trained in the Sasine Office or trained outside, the work is well done at the present moment.

57,911. (*Chairman.*) You mentioned that in the Register House there are also the departments of the Register of Deeds and the Record Office?—Yes.

57,912. At present those are entirely separate, except so far as they are all under the control and supervision of the Deputy Clerk Register?—Yes, entirely separate, and necessarily and by statute separate. The whole system of registration in Scotland depends on keeping the Record Office entirely apart from the other offices. The Keeper of the Register of Sasines does nothing but keep the register. He makes the minute book and the abridgement, which is now another name for the minute book, and as these are completed they are transferred to the department of the Deputy Clerk Register, that is to the Record Office. No alteration can be made upon a volume of Record after it reaches the Deputy Clerk Register's department except with his sanction. It is the cardinal rule of the registration system in Scotland that the making of the Record be kept entirely distinct from its custody. That has always been the case. It is the same with the Register of Deeds.

57,913. When there were local records of Sasines was the custody separate from the preparation of the Record?—Always. Prior to 1868 there were what were called Particular Registers of Sasines—there were 20 throughout Scotland. These would be called District Registers in England.

57,914. In whose custody were they?—They were transmitted regularly to Edinburgh and put under the custody of the Lord Clerk Register. That is the reason why in 1820 Mr. Thomson was able to introduce what were then called the abridgements. There was great difficulty in making a search prior to 1820, for this reason, that a deed could be recorded either in the Particular Register, i.e., in the district, or in the General Register of Sasines in the Register House, and when you went to make a search you required to search both the General and the Particular Registers. Now, Mr. Thomson having the control of the whole of the Registers in his own hand in the Register House proceeded to make an abridgement of both the Particular Registers and the General Registers, arranging them according to counties, and formed what he called an Abridgement of the Register of Sasines. He had to go back to the year 1780 because in Scotland a forty years' search was required. He abridged those and in that way brought into one focus the whole of the Register of Sasines for Scotland. They were all in his department. Every volume of Record as completed is handed into the Deputy Clerk Register's Department, it goes into the Record Office and cannot be taken out. If the Keeper of the Register of Sasines at the present moment wishes to consult one of his own volumes, say the volume for 1911, he must go to the Record Office and look at it there. He cannot get it into his own office.

57,915. In the Registry of Deeds also, is it the system that the Record when made is transferred to the Record Office for preservation?—Yes.

57,916. The suggestion has been made that convenience and economy of staff, especially as regards the engrossing staff, might result from a combination of the Register of Deeds and the Register of Sasines?—I do not think there is anything in that.

57,917. The two departments are concerned with very similar work, are they not?—Yes.

57,917A. They receive a deed, an official copy is made, and the only difference, we are told, is that in one case the original deed is returned to the person who

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presents it, while in the other case it is preserved in the office?—Yes, but a very large number of deeds go to the Register of Deeds which are entirely unconnected with land.

57,918. Though the character of the deeds in each case is different, is there any reason why those two similar operations should not be performed in two branches of the same office, and to some extent with the same staff?—The system has worked so remarkably well up to now that I can see no reason for making any alteration.

57,919. In the Sasine Office the work is very irregular. At certain periods of the year the work is very heavy, especially the work of copying the deeds, while at other periods of the year the work is very slack, and that creates a difficulty in arranging the work of the engrossing staff. In the Registry of Deeds the work is much more regular throughout the year, and besides it is not of such an urgent character as in the Register of Sasines. It was suggested, therefore, that a combination of the engrossing staffs of the two would enable the work to be carried on with greater evenness throughout the year, and, therefore, with greater convenience and greater economy?—I cannot see how that arises. As you say, the work in the Register of Deeds is practically steady throughout the year, it does not come in in exceptional quantities as in the Sasine Office, and we assume that they have a staff that will keep that office working and they do not require extra help.

57,920. No, it is the Sasine Office that requires extra help at certain seasons?—I cannot see that. There is as much urgency in the Register of Deeds as in the Sasine Office.

57,921. But if the work was pooled there would be less difficulty as regards staff at periods of pressure?—Theoretically there might be something in it, but, as a matter of fact, I do not think there is. You must keep in view that the pressure in the Sasine Office is not the engrossing. We are not so much concerned whether we get our deeds returned within a month or six months. The pressure in the Sasine Office is the minuting, and the engrossing clerks have nothing to do with that. Land transactions in Scotland are settled, as a rule, at the Whitsunday and Martinmas terms, and a very large number of deeds are sent in to the Sasine Office at these particular times in order to be recorded. The pressure is in the minuting of those deeds. After they are minuted they are set aside, and I do not think it makes much difference whether they are engrossed within a month or within six months. We have no complaint as to the deeds not being returned. It is of no particular value to have the deeds back into your hands. The real point is to have them put on the register. The staff are greatly pressed in order to minute the deeds, and that is where the delay occurs in the Sasine Office. It has always been a complaint, but you cannot get rid of it very well. They are better now than they were at one time. The mere engrossing of the deed does not make a great deal of difference. I have had deeds which were as long as six months before they were returned. It causes no inconvenience.

57,922. If it were found convenient as regards the staff, is there anything impracticable in it?—It is not impracticable, but I do not think it is desirable. While there is no urgency for the return of deeds from the Sasine Office, that is not the case in the Register of Deeds. The deed is retained, but the extract, or official copy as it would be termed in England, is wanted as soon as possible. The staff could not well be sent elsewhere.

57,923. In your précis, among other matters, you deal with the question of the Search Sheet; but whether that should be maintained or modified is a question which does not come within the reference to this Commission. The reference to this Commission requires us to deal with questions of appointment and of organisation; it does not entitle us to deal with the substance of the work with which the different departments are concerned. I do not, therefore, propose to enter into the system of the Search Sheet, which has been treated at great length by other committees, and in particular by Lord Low's Committee. Given that

the system of the Search Sheet exists, do you consider that the present staff is in any way excessive or unsuitable for that purpose?—No. If the Search Sheet is to be carried on, probably they cannot have a smaller staff, but my point is that you could have a much smaller staff and save a great deal of money if there was no Search Sheet, and I think it is right to say that there is no statutory authority whatever for the Search Sheet.

57,924. That, as I say, is a point which is really beyond the competence of this Commission; but, as you have mentioned it, it may be convenient to recall the recommendation of Lord Low's Committee on that point, which was to the effect that the Search Sheet should be continued. (*Reads.*)?—Yes. We recommended that, and a bill was introduced shortly afterwards for the purpose of giving it legislative effect, but the bill dropped on the ground that it also provided for the use of photo-zincography for the engrossing of the Record as we recommended. A somewhat similar recommendation had been made on a previous occasion. The legal bodies in Scotland made a recommendation to the Lord Advocate of the day with reference to the Search Sheet, and a bill was introduced in 1893 providing that the Search Sheet be legalised. In that case printing of the Sasine record had been proposed. The popular view was against printing, and, as this was opposed, the bill was dropped. There have thus been two bills introduced for the purpose of legalising the Search Sheet. Nothing has been done since the last bill was dropped, and the Search Sheet still stands, and is carried on at great cost and with no adequate advantage.

57,925. You mention the question of a system of a mechanical record of the deeds. That question has a certain bearing on the Commission's inquiry, because the question of the engrossing staff is a difficult one which would be solved if a mechanical system was adopted. As bearing on the question of the engrossing staff, can you say if there is any probability of a system of mechanical record being adopted in the future?—I understand that typewriting has been suggested. Typewriting is a very convenient thing. At the present moment the Deputy Clerk Register has instituted the typewriting of Extracts, and it has also been suggested that typewriting might be introduced for engrossing the record, but, I think, there are a good many difficulties in the way. It would certainly require most careful consideration, and would require the approval of the Court. The real trouble is the extreme facility for alteration. There is also the question of the action of light. I am told by experts that the action of light may remove the colour of certain inks. I am not in a position to say anything about that, but I have a typewritten copy of a paper of 1893 by Mr. Hope Finlay, the former Keeper of the Register of Sasines. This seems good and enduring, but there is the important question of erasure. For instance, I dictate all my letters. They are taken down in shorthand, but the shorthand writer may mistake a word of similar sound occasionally, and, when that is detected, the word is erased and the other word substituted, and, I believe, it is almost impossible even on a careful and minute examination to find out that there has been an erasure.

57,926. (*Sir George Paul.*) That is the only objection?—Yes, and there is the question of subsequent alteration.

57,927. (*Chairman.*) That question of alterations would be of less importance in the registration of deeds where the original document is preserved?—Yes, that is so, but still it would be very awkward to have any difference between the original and the record. At present the collation of the deeds in the Sasine Office, and in the Register of Deeds is very carefully and minutely done, and there are regulations as regards not only paper, but as regards ink and other things; everything is arranged for permanency. It is possible that under proper control and supervision typewriting might be introduced, but certainly it ought not to be introduced without careful investigation. I still think that photo-zincography might be adopted. Maps and plans are very often attached to conveyances nowadays,

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and these maps and plans are not registered, but with photo-zincography copies of these plans would be kept.

57,928. Turning to the remaining department of the Register House, the Record Office, have you any recommendations to make?—No. The Record Office is well managed. The only point I wish to raise is as to the Curator of the Historical Department. I think the Curator of the Historical Department ought to be taken from outside. There may be a man inside who has a special knowledge of the subject, but exceptional qualities are required for that position, which are not likely to be got in the office itself.

57,929. What exactly are the special qualities required there?—The Curator must have special historical knowledge. He must be acquainted with the old style of writing. He must likewise have an acquaintance with the forms of deeds. He must know the particular forms in use at particular periods, and what formalities and clauses were required in a deed, in a judicial writ, and in a decree of the Court, and so on, at particular periods. He must also have a knowledge of procedure so as to enable him to understand the Records. Beyond that you must have a person of sound historical knowledge, and, by far the most important point, he must have ability to interrogate the Record. That is to say, he must have cognizance of all the lines of historical research of the day, and how the Records bear on these. There is a great deal to be got from the Records beyond mere dates, names, and so forth. The Records are very largely used for local history, family history, and so on, but beyond that the constitutional history of the country can be got from the Record, and that has been a side of the question that has been far too lightly regarded. The whole judicial system of Scotland is to be found in the Records.

57,930. These are the qualifications you think essential?—Yes. The Curator ought to be able to guide any inquirer to the sources and to help him to understand them.

57,931. (*Sir George Paul.*) Such as Dr. Joseph Robertson, for instance?—Dr. Joseph Robertson was one of the most eminent Record scholars we ever had in Scotland; he was next to Mr. Thomas Thomson. I knew him well; I worked under him in the Register House.

57,932. (*Chairman.*) A thorough knowledge of mediæval latin would be an advantage?—Yes.

57,933. (*Sir John Kempe.*) You express rather strong views as to the interference of the Treasury?—Yes, in my *précis*.

57,934. I want to know your views a little more definitely. The Treasury, of course, are given powers for regulating the staff, and so on. You hold that that is all they ought to do?—Yes. This, of course, is just the question of the Search Sheet in a different form. The Search Sheet would never have existed but for the Treasury. The Search Sheet was sanctioned and carried on by the Treasury as a money-making concern. It is no part of the Records.

57,935. Putting aside the question of the Search Sheet for the moment, you understand it is necessary, if the Treasury have the duty of regulating the staff, that they must inquire into the duties of the staff, and that that very often involves discussion which seems to be outside the mere salaries and numbers of the staff; they have to understand the work they do. You do not object to that?—No. Certainly that is entirely legitimate, but in 1853 the Treasury on their own account set up official searching. Now, official searching had never been heard of in the Register House, and there is no authority for it except the Treasury minute; I think it was outwith the authority of the Treasury under the Act of 1817 to set up official searching.

57,936. I do not want to discuss that. My point is that you do not object to the Treasury satisfying themselves in this direction?—Certainly not. I think the Treasury perform most valuable duties, and the public service is greatly indebted to the Treasury. I do not question that in the least. You took from my *précis* the word "interference." What I meant by interference was that they had gone beyond their province.

57,937. (*Mr. Clymes.*) Have you any knowledge of any effort being made to put an end to the political influence that you have referred to with reference to certain appointments?—No. You must keep in view, as I have said, that this question of political influence is more theoretical than practical; the appointments have, as a rule, been good, but the general feeling is that political considerations should not enter into the question of appointment.

57,938. (*Mr. Boutwood.*) You and other witnesses have suggested that before a change to typewriting or any other form of reproduction could be made in Scotland some statutory authority is necessary. First of all, is that so; and why should one invoke so high a court as Parliament for the change from handwriting to typewriting?—It is not Parliament I refer to; it is the Court of Session. At the present moment the form of page and the number of words to be engrossed on a page in the register is regulated by the Court of Session.

57,939. So that it is not Parliament you refer to?—No. The Court of Session by an Act of Sederunt fixed that each page must have so many lines ruled upon it, that there must be so many words on each page, and if in a consecutive number of pages the average was greater than certain penalties follow.

57,940. You said that one Act recommended photo-zincography, and another Act recommended printing?—These were Bills, not Acts, and I think you would require the sanction of Parliament to introduce printing or photo-zincography. There is, I think, an Act of Parliament dealing with the subject. But the whole system of registration has been most carefully guarded by the Scottish Parliament and by the Court of Session.

57,941. So that for practical purposes you think you are tied up?—I think, at the present moment, for practical purposes, we are tied up. I do not think that any alteration ought to be made without a thorough investigation. The proper people to investigate are the Deputy Clerk Register and the Court of Session. And in connection with that I would like to say, in reference to the control of the Court of Session, that it ought to be provided, as has been represented over and over again, that all legal bodies and other persons interested should have an opportunity of being heard upon any change that is suggested.

57,942. (*Sir George Paul.*) As regards the Keeper of the Register of Sasines, who is an important official with a very large staff under him, he, you say, should not go direct to the Court or direct to the Secretary for Scotland, but should get all these difficulties cleared up for him through the Deputy Clerk Register?—Yes, but the Keeper of the Register of Sasines should have a pretty free hand. When you have a man such as Mr. John Clerk Brodie, you must look upon him as a thoroughly responsible man, fit to look after his own office and his own duties. I think he ought not to be unnecessarily interfered with by the Deputy Clerk Register, and I am just afraid in certain circumstances there is a little tendency towards interference.

57,943. It depends very much on the good sense of both parties?—Yes.

57,944. You say that you do not approve of competitive examination for filling up the vacancies?—No.

57,945. Then how would you fill up the junior vacancies?—By selection, just as I do in my own office.

57,946. That would be done by the Keeper of the Register just as he appoints at present the engrossing staff?—Yes. I, for instance, have a large staff, and find no difficulty.

57,947. You see no difficulty in getting suitable men?—None whatever. The Sheriff Clerk's staff is now selected from law clerks. The Sheriff Clerk might take a clerk from my office.

57,948. You would approve of promotion in the office?—Certainly.

57,949. A conveyancing clerk in a big office, with a good experience, could scarcely be expected to go into a junior position in the Register House?—A conveyancing clerk might quite well be assistant keeper. As long as you can get a suitable man in the office there is no reason to go outside.

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57,950. (*Mr. Graham Wallas.*) I understand that, by custom, political considerations do largely influence all the better paid appointments in the Register House?—I am afraid they do.

57,951. Would you agree with Mr. Watt's description of it—"The wretched system of making political appointments to non-political posts"?—I think that language is too strong. In the case of appointments for political considerations you get practically as good men as you could get otherwise, but it is a hardship on the outsider that the man who has done some political service should get the appointment.

57,952. I do not know whether you have often stayed in America, but do you know that if one objects to such appointments in New York the answer is, "But we appoint good men"?—I have been very often in America, and I know about what is done there pretty well.

57,953. The point I want to make is, would not you agree that the objections to the system are not disposed of by saying that, after all, in fact you get a good man?—Oh, no, the objection is not disposed of by saying that. The alteration is not suggested on the ground that bad men are appointed. The objection is that political considerations enter into the matter at all.

57,954. You say you do not think anyone could defend the system. Would you agree that the general opinion in the profession is against it?—Yes, I think the legal profession in Scotland is against it.

57,955. What steps do you recommend us to take to break this established habit which nobody defends?—That is a difficult question. It much depends on the holder of the particular office at the time. Some are less influenced by politics than others.

57,956. It has been suggested that this habit might be broken if the Lord Advocate were provided with the advice of a responsible committee. Do you think that would be adequate?—No; I think you are better with one man than a committee.

57,957. You do not contend that the responsibility of one man in the past has been sufficient?—It depended very much on the particular holder of the office. Some holders of office have taken very broad views and excluded, to a large extent, political considerations. Others have not.

57,958. The normal practice has been to include political considerations?—I think, as a rule, that is the general result. One can only go upon what one hears. It lies with the particular Minister concerned.

57,959. But I understand you to say, in the first place, that the system exists; in the next place, that nobody approves of it; and, finally, that you have no suggestion to make in regard to the changing of the system?—I did not know that it lay with me to make a suggestion. I have not considered how the change should be made.

57,960. You proposed to us that, with regard to the clerical appointments, which have hitherto been made without any regard to political considerations but by competitive examination, they should be put into the hands of a person who was appointed by political influence?—No; I would put them into the hands of the Keeper of the Register of Sasines.

57,961. But is he not himself normally appointed for political considerations?—I believe he is; but he does not hold a political office.

57,962. Is there so marked a difference between him and the Lord Advocate?—I think that the two positions are entirely different.

57,963. A great deal of the work in the General Registry is essentially accurate copying?—A large amount of it.

57,964. Have you ever considered whether that accurate copying might be done to a large extent by women?—There are no persons better fitted for the work. We all have typists, and in that particular department I think that a woman is better than a man. If you introduced typewriting into the Register House I would expect it to be done by women. It is done more accurately by them, it is better done, they are much more attentive and accurate. They turn out remarkably good work.

57,965. Women can also use the pen, if required?—Quite so. In my office, when typists have been asked to write something out in their own handwriting, I have found that they write just as well as male clerks.

57,966. And the appointment of women for copying in the Register House might perhaps be made without reference to the mechanical instrument they have to use?—Certainly. I go further, and say that any office in the Register House could be filled by women. I think there is no reason why women should not be trained for that work.

57,967. And you think this work of accuracy and tidiness might become almost to a predominant extent a female office?—Quite so. Women are quite as competent as men. I would have women as conveyancing clerks if they were available.

57,968. (*Miss Haldane.*) You mean they are not available in respect of not being trained?—They have not the qualifications, they cannot be admitted law agents. The Court will not allow a woman to become a law agent, but we have some women graduates in law; and if women were allowed to become law agents there is no reason why they should not do law work quite as well as men.

57,969. You agree with some of our other witnesses that women should be entitled to become solicitors?—Yes, I think that as regards conveyancing, for instance, there is no vocation more suitable for women.

57,970. You propose that they should be allowed to be brought into the Service and to rise in the Service, supposing they have the qualifications?—I think if a woman was to enter the Sasine Office she should have the qualifications.

57,971. Is it not the case that a large number of women are now studying palæography, for instance, and that they would be particularly suitable for working in the office?—There is no palæography required in the Register House, except on the historical side, but palæography is exceedingly suitable for women.

57,972. (*Sir Donald MacAlister.*) I should like to be a little clearer as to the method of recruiting you have in mind when you refer to the clerks. What is your idea of the other method that should be followed, other than competitive examination, I mean?—I would work it the same as my own office. In an office with 30 or 40 clerks you may have to go outside; you inquire all round, and, as a rule, you get a satisfactory man. I think that the Registrar of Sasines might carry on his office very well in that way. I think he would get more satisfactory men if he was allowed to choose from outside. In one's own office we put up our clerks from stage to stage, as well as take them from outside.

57,973. I am speaking of recruiting for the junior offices. How are they to enter the Register Office in the first instance? You say that the Keeper of the Register of Sasines ought to go out and find men just as he chooses?—Well, he would always have plenty of applications.

57,974. That is just the point. There are a large number of applications for these junior offices?—Yes; but in practice—of course, the war has made a great difference—in every large office you have a waiting list of 20 or 30 people wanting to get into the office.

57,975. There is always a waiting list for openings in the Civil Service, and some people are chosen; perhaps one is chosen out of 20 or 30, and the 19 or 29 say it is unfair?—I agree.

57,976. Then why should the present system be departed from in the case of the Register House?—Well, the Sasine Office is the only one in the Register House in which there is a large staff, but, apart from the engrossing staff, it is not very big, and can be controlled perfectly well by one man. The Keeper knows precisely what he wants, and I think it would work very well if he could select his own men. I think that when the Civil Service competitive system was introduced there were a great many nominations by persons not at the head of the office, but by outsiders. The head of the office is the responsible man.

57,977. Responsible to whom?—He is responsible to the Secretary for Scotland, and through him to Parliament.

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57,978. How is the Register Office in that respect different from all the other Civil Service departments?—I don't know anything about the other Civil Service departments. I can judge of the Sasine Office, because I am very well acquainted with it, and if I was Keeper of the Register of Sasines I would like to control and select the staff, and I think I could do it satisfactorily.

57,979. I suppose you would agree that on the waiting list probably three-quarters are all equally well qualified?—No. When you come to examine their qualifications you will find in the long run there is only one that answers everything that is required. It is not quite an easy thing to get a suitable man for a particular vacancy, and if you simply take them in by examination you don't necessarily get the right man.

57,980. In an organised service it is necessary to lay down some rules as to the age of the entrants, previous qualifications, and so on?—Yes, it is essential in a large concern. Of that there is no doubt; but the result is, I think, that the Civil Service, as a whole, is not equal to the service in a private office. You don't get nearly so much work is one point.

57,981. Supposing the Keeper of the Register of Sasines wanted such a clerk, do you say that he ought to advertise the vacancy?—I see no reason why he should not.

57,982. And supposing he got a large number of applications, what is to be the method of selection?—Send for them and see them.

57,983. A personal interview?—Yes, certainly, and I should ascertain what their particular qualifications were. You ascertain that one candidate has been employed in such and such an office, and another in another office, and you make inquiries as to what sort of work he had been doing there, and so on.

57,984. Supposing you found that a large number of cousins and relatives got into the office in that way, you would assume that they were all the best men?—Of course, if you get half a dozen all equal it is a difficult thing to choose, but in practice—and I have had a great deal of experience—I have never found that situation arise.

57,985. We have found in another part of the kingdom a curiously large number of family relations in one office?—That may be, but I think the public are more concerned with the efficient working of the office, and, in my view, you get more efficient results by the head of the office selecting his staff than by competitive examination.

57,986. In the advertisement would you state that the applicants must have so many years' experience in an office?—It depends entirely on what the vacancy is. If it is an assistant keeper, and the Keeper had not any person in his office, he would require to go outside.

57,987. But I am speaking only of the junior posts, because it is there that the competition now exists?—Well, it depends on the actual work that clerk is going to do.

57,988. They all do very much the same?—No. In one's own office you cannot say that there are two clerks exactly upon the same level; there is always some difference. They are doing slightly different duties. There are a large number of departments in my office, and you don't necessarily take a clerk from department A and put him into department C unless he has particular qualifications.

57,989. From the public point of view, when there is a vacancy for a post at 100*l.* a year, and somebody has got to get it, the public has to be assured that everybody who is qualified has a chance of getting it. That is the point of view of the Civil Service organisation?—I agree. You cannot get away from that. If the public are to criticise every little vacancy, of course you require to meet it in some way, but I should like to take a broader view and consider the efficiency of the Service.

57,990. (Mr. Shipley.) Could you tell me for how many hours the Register House is open to the public during the day?—From 10 to 4.

57,991. Is a good deal of work done after hours?—I think so. They must work longer hours in the Engraving Department.

57,992. And when the public get in and want to get a document, is that document found very readily?—Yes, the arrangements are perfect. This matter of searching could not be carried on unless the office was perfectly organised. The administration of all its departments is admirable.

57,993. (Mr. Matheson.) Are the clerks whom we have been speaking of pensionable?—I am not sure whether they have pensions or not. In the Sheriff Clerks' Office which I have in my mind there are no pensions.

57,994. And that is coupled with the fact, is it not, that there is no fixed age for retirement?—No.

57,995. Do you think that it is rather desirable that there should be a retiring age?—Personally, I don't think so. I would have been retired long ago if there had been any age limit that applied to me. I think it is for the head of the office to say whether a man should continue or not. We all have in our offices one or more semi-pensioners—people to whom we pay salaries simply because they have been a long time with us.

57,996. Have you had any experience, either directly or indirectly, of a public office not getting on very well when you had an accumulation of old people in it?—Not personal experience; but from that point of view, and for the working of the office, an age limit is necessary if there is to be promotion.

57,997. Quite so; and if you have an age limit you must have some system of pensions?—Quite so.

57,998. From that point of view, if you are appointing these clerks to posts which are going to carry pensions, don't you think it is natural that public opinion should demand an appointment which would be quite above suspicion?—I agree that compulsory retirement and a pension make it different from the administration of an ordinary office, and the appointment requires in such a case more consideration.

57,999. That is to say, more safeguards are required in the case of a public office where you have to appoint on definite conditions, with definite privileges, than in the case of a private office where a man is your servant, to be sent away at any moment you like to send him?—Yes, but I don't like to put it that he is a servant whom you can send away when you choose. A public servant can be dismissed.

58,000. I don't mean to say that you would do so?—No; but where the service is terminable at a fixed age and a pension runs on, I agree that more consideration in appointment may require to be made than when those elements don't come in.

58,001. (Sir John Kempe.) With reference to the comparison you made between the work of Civil servants and servants employed in legal departments, have you had experience of the work of the Civil Service departments?—I have no personal knowledge of it. You mean as regards efficiency?

58,002. Efficiency and the amount of work done?—You hear a man say that his salary is not very big and he has done enough for it. That is the feeling you get regarding the Civil Service. In point of fact, as far as I can judge, the Civil servant does not work so hard as a man in private life.

58,003. Have you actually seen that?—No, I have not had experience of the two offices.

58,004. I think in modern offices you will find work quite as important and quite as hard in the Civil Service as in private departments?—One can see that a large amount of hard work is done. In special cases there is no doubt about it, but the question is as to the work all over. Taking a large office and comparing it with the Civil Service, I would say that in a private office more work is done than under Civil Service arrangements.

58,005. You are speaking of private offices generally?—Yes. Take a railway office, for instance. I think the clerks in a railway office probably work harder than under the Civil Service arrangements.

58,006. Is that accounted for more or less by mechanical work?—There is a good deal of mechanical work in the railway office, I agree. I am a railway solicitor and I have a separate railway staff dealing with the work of the Glasgow and South-Western Railway, and

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I know what they do. A great deal of excellent work is done, and done very ungrudgingly, just as it would be in a private office, and I think that probably there is more work done than if they were there under Civil Service arrangements.

58,007. (*Chairman.*) How many hours a day do the clerks in your office normally work?—I think the hours are from 9 to 5.

Mr. JAMES ANDREW, called and examined.

58,010. (*Chairman.*) You are a law agent in Glasgow, and a partner of the firm of Mitchells, Johnston, & Co., law agents and conveyancers?—Yes.

58,011. Were you formerly a member of the Council of the Faculty of Procurators in Glasgow?—Yes.

58,012. And you give evidence before this Commission on behalf of the Faculty?—Yes.

58,013. The evidence you are prepared to give relates especially to the Sheriff Courts and their staff?—That is so.

58,014. What has been your experience of the Sheriff Courts?—I have been a practitioner in the Sheriff Courts for over 30 years, my practice being chiefly in the Glasgow and other Lanarkshire courts, but I have also practised in courts outside Lanarkshire—Dumbarton, Paisley, Ayr, and Stirling.

58,015. The Commission have already had evidence as to the nature and jurisdiction of the Sheriff Courts. Will you give us generally your opinion of the qualifications which the work of the Sheriff Clerk and his staff requires?—I consider, from the work which devolves on Sheriff Clerks and their deputies, that they must have special qualifications, including a general knowledge of law, a special knowledge of many statutes, and familiarity with forms of procedure, and extracts of judgments.

58,016. Taking the post of Sheriff Clerk in particular, do you consider that previous legal experience in the profession is desirable?—Very desirable.

58,017. You think that is of more importance than official experience in offices of the Court?—Very much more so, because you have always a large staff familiar with forms of procedure and the like, and you wish the head to have a special knowledge of law, which would be useful in regulating the work, and determining how it should be done.

58,018. Do you apply that observation to the deputies as well as to the Sheriff Clerks?—Yes.

58,019. A Sheriff Clerk is appointed by the Crown on the recommendation of the Secretary for Scotland?—That is so.

58,020. That in practice means on the recommendation of the Lord Advocate?—Yes, we all know that.

58,021. Do you consider that that system should remain as it is?—Yes, I think so.

58,022. Other witnesses have spoken of the extent to which political considerations enter into these appointments. Do they enter largely into the appointment of Sheriff Clerks?—I think they do in a great many cases.

58,023. What is your opinion of that system?—I have great difficulty in seeing a better system. Both parties get the opportunity of selecting the best men on each side, and, so far as Glasgow is concerned, the selections which have been made have been very satisfactory.

58,024. Is not the result of that system that a man who has not taken an active part as a political agent, or some other active part as a politician, is excluded from such appointments?—It operates decidedly in that way to a certain extent, but if the political agents had not the necessary qualifications, I am quite sure that the Lord Advocate would not recommend the appointments being made.

58,025. You justify the system on the ground that the appointments are good ones?—I think so.

58,026. Is that a complete and sufficient justification of the practice?—The difficulty is, if you don't have the appointments made in that way you introduce the system of inviting applications, which amounts to canvassing, and it then becomes a question of who has the most influence with the Lord Advocate.

58,008. Do they often stay after office hours when special work is required to be done?—At the particular time when the Sasine Office is hard worked the private office is much the same, and work has to be done after office hours.

58,009. (*Sir George Paul.*) I suppose there is an interval for lunch?—There is no recognised interval, but they all take it.

58,027. Is it not possible to conceive a system whereby the best men would be appointed apart from political or other influences?—I don't think it is possible to create such a system as that, because, after all, the person who has the power of appointment must make inquiry, and he necessarily makes inquiry through people whom he knows, and in that way their influence comes into operation.

58,028. Is it not possible to make the inquiry in such a form that it would bear solely on the merits of the candidates, and not on the influence they could command?—That, of course, comes into operation, but suppose you get three men who are equally qualified and equally recommended, one may be known to the Lord Advocate and the other two may not. Why should not he select the gentleman who he knows is well qualified.

58,029. You assume that the appointment remains with the Lord Advocate?—To all intents and purposes, it does remain in his hands. My understanding is that, while the appointment is made by the Secretary for Scotland, the Secretary for Scotland consults the Lord Advocate and takes his recommendation.

58,030. I was speaking rather of the future. You suggest that the appointing authority should not be modified in any way?—I don't think so.

58,031. The suggestion has been made, with regard to English legal appointments, that the appointing authority should be assisted by the advice of a committee consisting of impartial persons, including the head of the department concerned, and others, with a view to obtaining impartial advice. Do you consider that a system of that kind is required in Scotland?—I don't think it would serve any purpose in Scotland.

58,032. Would it not be possible to create a committee specially for that purpose?—I don't think so. I don't think it would work, because, after all, each member of the committee would have influence brought to bear on him, and his knowledge of the candidate would also come into operation, just in the same way as the knowledge of the Lord Advocate comes into operation just now.

58,033. Your estimate of human nature is that it is impossible to conceive a committee which would not be influenced by personal or political considerations?—I do not know of a committee which is not influenced in that way.

58,034. Apart from the question of Sheriff Clerks and their deputies, there is also in each district a certain staff carrying on the work of the office?—That is so.

58,035. That staff gives partly whole-time and partly part-time services?—Yes, in the most of the Sheriff Clerks' offices the junior clerks give their whole time. There are one or two very small places where the work is so little that they do not require to give their whole time to it, but these cases are not very numerous.

58,036. That staff is at present appointed by the Sheriff Clerk?—Yes.

58,037. Is there any definite system of promotion?—There is no definite system, no recognised system.

58,038. Do transfers often take place from one district to another?—Very seldom just now.

58,039. Do promotions often take place from the staff to higher posts?—Yes. In the case of Glasgow all the promotions have been from the staff; all the Sheriff Clerks Depute have been appointed from the staff during my period of observation.

58,040. Do you think that is the right system?—I think so.

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[Continued.]

58,041. Is there at present any difficulty in obtaining satisfactory recruits for the junior staff of the Sheriff Courts?—There is no difficulty.

58,042. But if there was a regular system of promotion, if promotion were more recognised than it is at present, it would add to the attraction of the Service?—I do not know that it would make very much difference. I think it is just very much the case of young people, when they are leaving school, simply seeking to get employment, and in a great many cases they do not discriminate, more especially if they merely want to get into an office and get an office training.

58,043. Do they not look at the prospects of future advancement?—That does apply, I think, in the case of most of them, but not to any great extent to begin with.

58,044. Do you consider it would be advantageous to have a more regular system of promotion?—I do not think it would be any advantage to the public. I think that at present the Sheriff Clerks get very good assistance without competition.

58,045. Do you consider that there should be a system of promotion among the Sheriff Clerks themselves and their deputies?—Yes, I think that that might with advantage be brought into operation.

58,046. How, in your view, would such a system work?—I think it would work very satisfactorily. If you take, for instance, the case of Lanarkshire, where we have nine Sheriff Clerks Depute, any one of these Sheriff Clerks Depute would be qualified to become a Sheriff Clerk in sheriffdoms where the work was not exceedingly heavy, and where his experience would be of great value.

58,047. The Committee on Minor Legal Appointments recommended a reduction in the number of Sheriff Clerks. They recommended that there should be one Sheriff Clerk in each sheriffdom?—I entirely agree with that view.

58,048. Will you explain the advantages?—The advantage would be this, if you had a Sheriff Clerk for each sheriffdom there would be sufficient work to take up his whole time, and in that way he should be restricted from private practice; and when a Sheriff Clerk, the head of a department, is devoting his whole time and attention to his work, without having the distraction of private practice, I think he would become much more efficient.

58,049. At present the Sheriff Clerks are not restricted from private practice?—In a great many cases they are not. In a great many cases the work is not sufficient and the remuneration is not sufficient.

58,050. If the number was reduced to 15, as proposed, it would be possible to make these whole-time appointments and to restrict the holders from private practice?—I think so.

58,051. How far would you carry that restriction? Would you allow them to act, as they do at present, as Auditors of the Court?—The Sheriff Clerks, in point of fact, I do not think have ever acted as Auditors of the Court. That has always been an appointment given to one of the deputies, and I think he should still be open to take such an appointment as that. You, of course, have a depute in each particular town where you have a Sheriff, and the desire is that the Auditor should be in each of those towns, so that I think it would hardly do to make the Sheriff Clerk the Auditor, because he might be resident in one town of the sheriffdom and not come in contact with the other towns.

58,052. Would you apply the restriction as to private practice to the deputies?—Yes, certainly.

58,053. And that would be practicable?—Yes.

58,054. You would approve of a system whereby deputies might be promoted from a less important district to a more important district, and ultimately be appointed Sheriff Clerks?—That is my view.

58,055. Would the deputies under that system ordinarily be promoted from the clerical staffs of the offices or from outside?—I do not see any reason why they should not be appointed from the staff.

58,056. The staff would have the necessary qualifications?—I think so.

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58,057. If the Sheriff Clerks are to be appointed by promotion, it would be difficult to carry out your suggestion that outside professional experience should be required of the Sheriff Clerks?—Yes. Of course you would get against that the experience he has of the work. It might obviate the necessity of bringing in outside law agents as Sheriff Clerks.

58,058. The effect of your suggestion would be to create something like a regular service, with promotion upwards inside the service?—That is so.

58,059. In order to complete that system, would it not also be desirable to create some system of transfer and promotion among the staff in different places below the rank of depute?—I think that would be quite desirable, because in that way the clerks who are in the smaller offices would get into the larger offices, and thereby acquire special experience.

58,060. Do you anticipate that the staff would readily accept transfer to a different town for the purpose of obtaining advancement?—I think they would.

58,061. It has been suggested to us by a previous witness that if the number of Sheriff Clerks were reduced, the question of promotion or transfer of the junior staff between the different offices should be controlled by a small committee of the Sheriff Clerks?—I do not see any serious difficulty in having an arrangement of that kind.

58,062. In order to make a system of that kind, it would be necessary to have some authority which would be able to review the whole of the offices?—I quite agree.

58,063. Would you prefer a small committee or a single person?—I think it should be a small committee in that case, because the small committee would be able to bring more knowledge to bear on the appointments as regards the candidates.

58,064. They would have a knowledge of their own staffs and their own districts, and could obtain a knowledge of the staffs in the other districts?—Quite.

58,065. At present none of the officers with whom we have been dealing have a pension?—They have not.

58,066. Do you think there ought to be a pension system?—I undoubtedly think so. I think after a person becomes a Sheriff Clerk Depute he has practically got to an age when it becomes his life work, and I certainly think there ought to be a pension.

58,067. Would you apply that to the whole of the staff?—Not to the junior staff. I do not see any reason why the junior clerks should get into the Sheriff Clerks' offices on the footing that they were to get pensions whether or not they became Sheriff Clerks Depute.

58,068. At what age would they generally become deputies?—I should think probably between 35 and 45.

58,069. Is there not a certain difficulty in instituting a pension system for a service where men enter as late as that?—I do not think so. Take the system of pensions applicable to Sheriffs and Sheriff Substitutes, a Sheriff Substitute who has held office for 10 years is then entitled to retire with a third of his salary; after 15 years he is entitled to retire with two-thirds of his salary; and after 20 years he is entitled to retire with three-fourths of his salary. I think at that age a system like that would work quite well.

58,070. That is more liberal than the ordinary Civil Service scale?—Yes.

58,071. Is that under the Sheriff Courts (Scotland) Act, 1907?—That is so.

58,072. That system does not apply to anything except judicial offices?—That is so.

58,073. Would there not be some difficulty in placing officers whose work is clerical on a much more favourable position than any of the other clerical offices in the kingdom?—I see no reason why they should not, because it has to be kept in view that the salary they get, just because it is clerical work, is much smaller.

58,074. Would it not be likely to create discontent in other offices?—They would, of course, just deal with the discontent, and endeavour to get their position improved.

58,075. If they were levelled up all round it would lead to very large increases of expense?—If we were getting an efficient service, I do not know that that element should enter too much into consideration.

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[Continued.]

58,076. Speaking generally, is the organisation of the offices satisfactory, and do you find that the manner in which the work is performed meets the convenience of the public and the profession?—Undoubtedly it does. We have an excellent staff in the Sheriff Clerks' offices in Lanarkshire and in the other places where I have been.

58,077. (*Mr. Matheson.*) Do I understand from your précis that at present a man working under the Sheriff Clerk is debarred from qualifying as a law agent?—That is so.

58,078. Is that by statute?—Yes, under the Procurators (Scotland) Act, 1865, it was provided that services with the Sheriff Clerk would be equivalent to services with a law agent, and in that way an apprentice entering a Sheriff Clerk's office could make himself an apprentice, and by passing the necessary examinations become a law agent. Unfortunately, that was abolished by the Law Agents Act, 1873. I do not know why, but I think that that was surely a great mistake.

58,079. You would like a change made?—Yes.

58,080. (*Mr. Graham Wallas.*) You told us that if an attempt were made to appoint the best man as Sheriff Clerk without reference to his political work, that that would lead to canvassing, and that the man who had the most influence with the Lord Advocate would be appointed?—That is so, but we know that the appointments now are made very quickly, and the Lord Advocate, I take it, has a very good knowledge regarding the capacity of the political agents.

58,081. The point is at the present moment the normal thing is to appoint the paid political agent in the district concerned?—That, I think, is usually done.

58,082. And you think that that simplifies the problem and prevents canvassing?—That is, perhaps, rather a crude way of putting it, if I may say so.

58,083. You say the Sheriff Clerk and his deposes have duties to perform each year in connection with the registration of voters for the Parliamentary elections, and duties in connection with the actual work of these elections when they take place. Speaking generally, what are their duties in connection with the registration of voters?—Of course the valuation roll is made up, and there are appeals taken to the Sheriff Court. In the case of lodgers in Glasgow, for instance, you may have something like 10,000 or 20,000 applications by lodgers to be put on the register of voters. We have a system whereby the Sheriff Clerk and his deposes scrutinise these applications and practically arrange who should be put on the register of voters, the result being that only very few cases require to be dealt with by the Sheriff.

58,084. The main part of the work is done by the Sheriff Clerk?—The list of voters is made up outside.

58,085. Of course the Sheriff Clerk must find his political experience very useful in that way?—He must.

58,086. (*Sir George Paul.*) I suppose really what the deposes want is fixity of tenure?—That is so.

58,087. At present their positions are precarious; they are appointed by the Sheriff Clerk and can be dismissed by him?—That is so, and I think there should be a qualification on that—I do not think that a Sheriff Clerk Depute should be dismissed without his having a right to appeal to the Secretary for Scotland.

58,088. Then how do you propose, if there was fixity of tenure, that they should be elected in future?—The suggestion was made by the Chairman that a small committee of Sheriff Clerks might have the right of appointment.

58,089. How would it do if the appointment was made by the Sheriff after a consultation with the Sheriff Clerk?—I would certainly approve of such a system as that.

58,090. Would you prefer that to a committee?—I would prefer that.

58,091. You have deposes in Glasgow and deposes in Airdrie and deposes in Hamilton?—Yes.

58,092. Do you consider them a consolidated set of deposes for promotion within the county?—Yes.

58,093. Each depute is not attached to his own Court, but they are all under the Sheriff Clerk?—Yes.

We have already a case where a depute in Airdrie was brought into Glasgow as Sheriff Clerk Depute.

58,094. As regards pensions, you would not have pensions in the case of the clerks?—I think not.

58,095. Supposing the junior clerk should rise in time to a depute, would he become eligible for a pension?—Yes.

58,096. Would you take into account the whole of his time since he entered the office?—No, certainly not.

58,097. Then it would not be retrospective as regards the whole term since he first entered the office?—I think not.

58,098. You spoke of the proportions of their salaries that the Sheriff Substitutes get as pensions on retiring. It has been suggested that that is too high a proportion, but I suppose the proportion is merely a matter of arrangement?—It is a mere detail.

58,099. Your view is that the Lord Advocate should have the appointment?—Yes.

58,100. And your view also is that the Sheriff Clerk should be a qualified law agent?—Yes.

58,101. Then would you fetter the Lord Advocate with the condition that the district appointments should be made from qualified law agents?—No, certainly not.

58,102. You would fetter him to this extent, that his selection should be either from a qualified law agent or from a qualified Sheriff Clerk Depute of five years' standing?—Yes.

58,103. (*Mr. Boutwood.*) You referred to a liberal scale of pensions granted to Sheriffs and Sheriffs Substitute, and they were spoken of as judicial appointments?—Yes.

58,104. Then when the suggestion was made that the same scale of pensions should be applied to those men we are talking about now, the Sheriff Clerks and their deposes, the point was taken that the Sheriff Clerks and their deposes are clerical; but the general impression that has been left on my mind is that the Sheriff Clerks and their deposes are really part of the judicial system?—They are part of the system, but then they do not give any decision in regard to matters.

58,105. That is the distinction you make?—Yes.

58,106. There is another matter that arose out of an answer you gave a moment ago about the need of some central authority for arranging the transfers and promotions of men if you had the general system for the Sheriff Clerks that we have been talking about, and I did not quite feel the force of your answer, because I did not quite understand it. You seemed to accept the suggestion that the Sheriff should look after that?—The Sheriff Clerk and the Sheriff.

58,107. Under the new system there will be a Sheriff and one Sheriff Clerk under him, but how would he be central for the whole body?—Take, for instance, his own counties—the Sheriff has probably jurisdiction over three counties, and in each of these counties you might have two Sheriff Clerks Depute—in the question of promotion, the opinion of the Sheriff in the appointment would have great value because he is brought into contact with the Sheriff Clerk's assistants or deposes.

58,108. I thought you meant he was to be the man who was to make the appointment?—No.

58,109. He is simply to be consulted?—Yes.

58,110. (*Sir John Kempe.*) You rather object to open competition?—Yes; I agree with the views which Dr. Murray expressed.

58,111. You say that, "It has to be kept in view that the appointments to positions in the offices of Sheriff Clerks do not appeal to a large number of people. I think, however, that if the service with the Sheriff Clerk could be treated as equivalent to serving as law apprentices, there would be no difficulty in suitable recruits being obtained." What would be the effect of that? Do you mean that they would get outside appointments?—Yes.

58,112. Do you think that service in the Sheriff Clerk's office is as good as training in outside offices?—It is quite as good in a great many cases, and it is probably better in regard to certain matters. On the question of conveyancing, of course, it is not so satisfactory; but there is no doubt about this, that if a young man in a Sheriff Clerk's office was taking his classes and doing

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[Continued.]

what was necessary to enable him to qualify as a law agent, he would get into an independent office much more readily than he possibly can expect to get at present, where he never gets beyond the stage of being a clerk.

58,113. Would not that apply to men recruited by competition, an intelligent, good class of men?—I think not; because, I think, if you introduce the question of competition, you then do away with the question of enabling them to become law apprentices and qualifying as law agents.

58,114. Still you admit that the man appointed by open competition could train in the office all the same?—Yes; but if you introduce the Civil Service system, you do not then get a selection of young men who have a predilection for law and a desire to become law agents.

58,115. (*Miss Haldane.*) I wanted to know about your view of pension rates. A pension would only be given to those who were whole-time men, I suppose?—Undoubtedly.

58,116. Do you anticipate it would be given to the Sheriff Clerks and the depute also?—Yes, to both.

58,117. Do you anticipate that they would not be allowed to do any other work?—Yes; except becoming Auditor of the Court in the matter of taxation of accounts.

58,118. Would you approve of there being transference from one Sheriff Clerk's office to another?—Yes, certainly.

Mr. JAMES HOTCHKIS JAMESON, W.S., called and examined.

58,126. (*Chairman.*) You are a Writer to the Signet?—I am.

58,127. Wherein does your practice lie?—My office is in Leith, and I have been a member of the society since 1880. I have been largely engaged in court practice for the last 25 years, although my experience of the court has extended to at least 35 years.

58,128. You are prepared to give evidence on behalf of the society?—I have been so appointed.

58,129. Dealing first with the question of appointment and promotion in the offices of the Court of Session, to what extent do you think that professional qualifications are required in these offices?—It is difficult to answer that without giving an explanatory statement. The views of the society are that it would be a great advantage, both for the staff itself and the public, if the principle of promotion were followed more largely than it is at present. Were the staff organised on the lines that we would suggest, then we certainly are of opinion that the qualification, even in the case of engrossing clerks, if they are to be eligible for promotion to the higher offices, should be that of a certificated law agent.

58,130. You would apply that qualification to all persons employed in the offices of the court?—Yes.

58,131. Would you apply it universally, or would you make it a condition of promotion from the lower positions?—Of course one would not suggest for a moment that the existing staff should be affected in any way by any regulation of that kind, but in future appointments we think it would be desirable to insist on this qualification.

58,132. Would you apply it in all cases? You mentioned that even in the case of engrossing clerks you would make the possession of that qualification a condition for further promotion?—Yes.

58,133. Would you, therefore, admit to the post of engrossing clerk and to other minor positions persons without that qualification, making it a condition that further promotion can only be obtained after having obtained that qualification?—I think it is practicable. Of course, there is this difficulty which must be borne in mind—the question of age. I have heard it suggested that perhaps a second division Civil Service clerk might be appointed. That would be a clerk between the ages of 17 and 20. That is distinctly too young an age for any person on the Court staff, even an engrossing clerk, and the difficulty is that at that

58,119. That being so, it seems to me that there might be a head. You say that if there was one head of this service, he could not be familiar with the Sheriff Clerks Depute, and so on?—The difficulty would be to locate him. I do not know what the duties of one head would be, whether he would reside in Edinburgh, with a sort of general control, or not. If that were so, I do not see how he could be familiar with the various Sheriff Clerks and their deputies, and so on.

58,120. Could he not find a way of becoming acquainted with these candidates?—Not in the same way as a Sheriff Clerk could. For instance, the Sheriff Clerk has the men immediately under him, and sees what they are doing every day, and can ascertain their capacity. A head living in Edinburgh could not necessarily know their qualifications.

58,121. Would there not be some difficulty about the transference?—It was suggested by the Chairman that there might be a committee of Sheriff Clerks who would have the right to regulate these matters, and such a committee, I think, might work very well.

58,122. And you might have a consolidated service in that sense?—Yes.

58,123. With pension rights?—Yes.

58,124. Then you are coming near the Civil Service idea?—Far from it, because the number of Sheriff Clerks and Sheriff Clerks Depute is very small.

58,125. You would not extend it further?—No; I do not see why the staff of the Sheriff Clerk's office should be treated differently from ordinary law clerks with the right of competition in the legal profession.

age he would not have completed his apprenticeship, far less qualified in law.

58,134. Would it be possible for a man without the qualification of law agent to take up the position and qualify afterwards?—That suggestion has been made. I do not see how he could acquire his professional qualification and at the same time attend to his duties at the court. It might be done if he had previously served his apprenticeship.

58,135. Is a person employed in an office of the Court able to acquire the necessary qualification at present?—I think not. Of course, to qualify as a law agent in Scotland, if the person holds a university degree, he must serve an apprenticeship of three years; and if he does not hold a university degree then he must serve an apprenticeship of five years, and in that case he has to pass a general knowledge examination. When that has been done he has to pass his qualifications in law.

58,136. Does service in an office of the Court count as apprenticeship?—No.

58,137. So that a person entering an office of the Court could not become a law agent unless he served his apprenticeship in an outside office?—It is quite impossible, and for this reason: for an apprentice to acquire a thorough practical knowledge of conveyancing it is necessary that he should serve his apprenticeship in an outside office. He could, no doubt, acquire the theory of conveyancing from law books, but he would be absolutely at sea if he was asked to prepare a deed.

58,138. At what age can an apprenticeship begin?—I do not think there is any fixed age, but in point of fact I do not think you will get apprentices earlier than 17. Generally they are very much later. Of course, if a young man takes a university course in arts first he will not commence his apprenticeship until he is 21, and then he will have his three years' apprenticeship, and he will also have to stand his trials in law.

58,139. Is your suggestion as to the normal method of admission that a young man should serve his apprenticeship and obtain his qualifications as a law agent before entering one of the offices of the Court?—Yes, that is so.

58,140-1. If he did that, in your view, he should be eligible for the higher posts?—Yes, with the exception of the Principal Clerk of Session, who we consider is in a different category altogether.

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[Continued.]

58,142. Under the present system persons are often appointed to the higher posts from outside?—Yes.

58,143. We have been told by several witnesses that political considerations enter largely into these appointments?—I assume so.

58,144. What is your view as to that system?—I think the public do not get the best service, although I do not suggest for one moment that the present staff is not a very competent one and very pleasant to get on with; but I do not think even the Court or the public get the same stamp of men as they would get otherwise if the suggested alterations were made.

58,145. You think that a better stamp of man would be obtained if the alterations were made?—Yes. For instance, under the present system many of the members of the staff are recruited from advocates' clerks. Although they have excellent qualifications in many ways, they have not, usually speaking, the qualifications which we think are desirable for a position of the kind, and if some system of the kind suggested was introduced I think it would be a great matter even for the advocates' clerks, although they are not under this inquiry, if they had these qualifications too. They would then be eligible, just like other people.

58,146. Then your suggestion is that the original appointments should be made, as a rule, to the junior posts and that the higher posts, with the exception of the Principal Clerk of Session, should be filled from below; and that the appointments should be made without reference to political considerations?—Most distinctly.

58,147. Do you suggest any modification of the appointing authority in order to carry out that change?—We suggest that the appointing authority should be the Lord President, as head of the Court. After all, it is a comparatively small establishment, and the head of the Court would be entirely free from political considerations which might influence another authority. We think if the appointment were vested in him that he would exercise it in the way most beneficial to the Court itself and to the public. I may, perhaps, be permitted to point out that even as it is under the 1889 Act, with regard to the regulation of the clerks of Session, the Lord President is vested with a certain amount of control and supervision of the existing staff.

58,148. But not of their appointment?—Not of their appointment. I think most of the staff hold Crown appointments.

58,149. If that change were made, do you think that the Lord President ought to be assisted in his selections by the advice of any person or committee?—We hardly think that would be necessary, because it may be assumed that the Lord President would take the best advice he could get; but as the suggestion is made in your notes, I think if the present system of appointment were continued, which the society think is undesirable, then it would be desirable that there should be some sort of control or check. On the other hand, if the Lord President were vested with these appointments, we do not think it would be necessary to saddle him with a committee, because we assume that he would take the best advice he could get; and I should think probably the persons he would naturally consult would be the Principal Clerk and some of the other judges, the Dean of the Faculty of Advocates, and the heads of the two societies that practise before the Court.

58,150. If the power of appointment remains in the same hands as at present, you think it desirable that a committee composed of some such persons as those you have named should make recommendations with regard to candidates?—Yes.

58,151. Have you considered the question of competitive examination as a means of recruitment?—We have, and the society is not very much attracted by the idea, not on the ground that competitive examination would not secure probably a good man, but it would hardly form an efficient test for the kind of men we want for these positions. What I mean is this: of course when a man goes into a special department like this, he is bound to fall more or less into a routine habit, and the nature of his work is very much calculated to strengthen that, and my own experience is that

where certain of the gentlemen who are on the staff sometimes fall short of satisfaction, from a solicitor's point of view, is just owing to this routine habit of mind which we think would, to a certain extent at any rate, be neutralised by the agent's qualifications and the experience he has gained.

58,152. It would be possible to have competition among people who had a certain length of service in a law agent's office?—I think that is a detail that I have probably no right to speak to, but I do not see myself why it should not be so.

58,153. That system is at present in operation in the Sasine Office?—Yes.

58,154. Would not you in that way combine the advantages which follow from outside experience with the advantages which arise from a perfectly impartial selection?—That is quite true, and of course it might work well, as competitive examinations have in many different departments of life. On the other hand, you never can tell by competitive examination whether you get the right man. He may prove with all his mental qualifications to be the wrong man.

58,155. Is not that also true as regards personal selection?—It is quite true, but perhaps not to the same extent.

58,156. You mentioned that you thought the Principal Clerk of Session should be appointed directly from outside and not by promotion?—Yes.

58,157. By whom, in your view, should that appointment be made?—That also I think should be vested in the Lord President. He is really the person who is most interested in the character and capacity of the official who occupies that position; he is the chief clerk of his own Court. Of course the principle that has so far been adopted is the idea that the whole staff should be controlled and supervised by the Principal Clerk of Session, and that we think makes it all the more desirable that the appointment and selection of the principal clerk should be in his hands.

58,158. It is your view that the Principal Clerk of Session should be in control of the whole of the offices?—Certainly. I should add, of course, that it is possible to take an exaggerated view of the extent of the control which he exercises since the change was made. So far as I know the previous system has just gone on as before, but, subject to some observations I have to make afterwards as to the organising of the whole business and the removal of the offices of the court from the Register House to the seat of the court, I am quite in favour of that. There must be somebody in control of the staff.

58,159. The system you suggest of original appointment to the lower posts and promotion to the higher posts would, I presume, require, for carrying it out fully, some interchange and the possibility of transfers between the different branches of the offices?—That is quite true. With regard to the Clerks of Session and their respective offices, there is no practical difficulty, nor is there any practical difficulty as far as I can see in, say, promoting the junior clerks of the Bill Chamber and the Extractor's Office to the assistant clerkships or the ordinary clerkships of the Court. That would be quite feasible and quite proper, but I think there might be some difficulty, and it would not be attended by fortunate results if an Assistant Clerk of Session who had no experience further than that of his office were all at once transferred to the position of Chief Clerk of the Bill Chamber; and, of course, still more so if he were made Clerk of Teinds. A suggestion has been made about the consolidation into one general department of the whole staff. I do not see any objection to that, but then one must ask what is the meaning of consolidation? Are you to abolish the Bill Chamber, the Teind Office, and the Extractor's Office? Because, if these were abolished, the duties would have to be transferred to somebody else—exactly the same sort of work would have to be done—and all, evidently, that you would have would be a change of name.

58,160. Then you qualify your recommendation by the statement that there are special posts requiring special qualifications, and you say that general experience in other parts of the office would not necessarily qualify a man for these posts?—That is so.

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[Continued.]

58,161. But it might very likely be the case that an Assistant or Ordinary Clerk of Session would have previous experience as a junior clerk in the Bill Chamber?—It is quite possible.

58,162. And in that case he might have the necessary qualifications for appointment as Principal Clerk?—Yes; and, of course, if he had a law agent's qualification he would pick up the duties of any particular office he was appointed to much more rapidly than if he had not.

58,163. The same would apply to the office of Extractor?—Yes. Might I just add a few words about the Extractor's Office? I understand that there has been a suggestion made that the duties of the Extractor might be transferred to the Depute Clerks of Session under the supervision of the Principal Clerk of Session. My society is very strongly of the opinion that that would be a most unfortunate arrangement. I do not know whether you are aware that prior to 1810 that system prevailed, namely, that the Principal Clerks of Court—they were then six in number—and their assistants prepared the extracts and issued them. There was a change made in that year, when there were six assistant clerks appointed extractors, and that change only endured some 11 years, until the Act of 1821. There was a further change made again in 1838, when the present system was inaugurated. One may very well, therefore, presume that the system of each Clerk of Court issuing his own extracts proved, in practice, a mistake. Anyone intimate with the Court knows perfectly well that there would be most extraordinary confusion if it were attempted at present.

58,164. You consider that the work of extraction should be done by a separate branch?—Yes, and by a person who can take a view of the whole thing. It must always be remembered that a decree of the Court is a decree of the whole Court whether it is pronounced by the Lord Ordinary or otherwise.

58,165. Turning to the question of organisation, have you any observations to make?—Well, that seems to raise questions I have already reverted to. It does so, I think, in two ways. In the first place, I think it goes without saying that if the Principal Clerk of Session is to have the control and supervision of the whole staff it is quite an anomalous arrangement for that staff to be divided in two different places, and the Principal Clerk to be in one when he cannot possibly be in the other. I assume you are aware of the arrangement of the division of the staff, and it is not necessary for me to deal with that; but it has been found in my experience, and I think in the experience of other members of the society, a highly inconvenient arrangement that the offices of the Court are at a distance from the Court. There is not only the division of the staff, but the Depute Clerks of Session who are supposed to exercise control of their own offices are prevented from doing so by their duties in Court; and the Assistant Clerk has to do all the work of the office. As I have said, the Principal Clerk has to be in attendance at the Court till 4 o'clock when it is in Session, and he cannot, therefore, be down at the Register House exercising his supervision and control. The same remarks applies to the Depute Clerks. In addition to that, quite often a process has to be got in a hurry, and it cannot be got. Often the Court cannot get a process if it is wanted and happens to be at the Register House without sending a special messenger for it, and an assistant clerk or an ordinary clerk has to go down and unlock his office and get out the documents. Then there is a great deal of abuse of the documents with the constant handling, and our view is that the Court offices should be removed up to the Court. Of course, it would be an ideal improvement if the whole offices of the Court could be located there, not only the offices of the Clerks of Session, but the Extractor's Office, the Bill Chamber Office, and the department of the Accountant of Court and Auditor's office; but, if there were no room for them, I think it would be a great improvement, and lead greatly to the efficiency of the staff, if the offices of the Clerks of Court themselves were removed to the Court buildings. The Extractor's and the other offices are not absolutely so material, although they ought to

be under the scheme. There is no doubt about the absolute necessity for the removal of the offices of the Clerks of Court. Such an arrangement as the existing one I do not believe, prevails in any supreme court in the world—all its offices being half a mile from the court. The Court would then always be in control of its own documents. It is by no means an uncommon incident for an important document to get lost, and no one ever knows where it goes.

58,166. If that were done, would it be practicable to simplify the system of dealing with current processes? Would it be possible to deal with them in one office instead of in the separate offices of the different courts?—That is a matter of opinion. Personally I see no difficulty about it.

58,167. If that were done, would it result in an economy of staff?—Well, there might be a couple of assistant clerks dispensed with, but I do not think the game is worth the candle, because whoever was dispensed with, the depute who had to do the whole work would complain that he had not assistants. Another advantage, of course, would be that the Depute Clerks would then be able to attend their own offices and they would be available for consultations with agents, counsel, or anybody interested between four and five when the Court rises. You cannot get hold of a Depute Clerk at present unless you make a special arrangement after 4 o'clock.

58,168. Do you suggest that the hours should be extended up to 5?—Yes. Of course the offices are open at present from 2 to 5 while the Courts sit, but if the offices were consolidated they could be open all day in vacation as well, and very often it is a matter of great convenience to get a document during the vacation.

58,169. The change in the location of the offices would probably also facilitate the consolidation which you have spoken of?—I think materially so.

58,170. To what extent would you carry the consolidation?—As I said before, I think it very much depends on what you mean by consolidation. I do not think that any consolidation would make very much difference, except perhaps in facilitating a transfer of clerks, because if you were to abolish these separate offices you would have just the same work to do in a different form with a change of name.

58,171. It would be a change in the status of the particular officers to a certain extent?—It might be. If you abolished the Teind Office you would have to have a Teind Office still, and you would have to have a person there who knew about teinds, and who specialised in that particular department, therefore you would have the same thing.

58,172. Which offices would you include in the consolidation?—If there is to be no alteration about these other offices, I would include the Clerks of Court, Bill Chamber and Extraction Office. I would certainly not include the Crown Office or the Justiciary Office, but I would include these other offices and the Teind Office to this extent, that the clerks might to a certain extent be interchangeable.

58,173. Do you consider that the clerks should be prohibited from private practice, and required to retire at a fixed age?—Yes. Under the Civil Service rule, I understand that 65 is the limit for retirement.

58,174. The Civil Service rule is that a man may retire on a pension at 60, but he must retire at 65, with special power to extend it to 70?—Many of the present staff still hold their appointments until they are 70, and I think that would be a very good age. No doubt a man with a large experience is an asset to the Court and to the public.

58,175. Do you see any reason why for future appointments the ordinary Civil Service rule should not apply?—I do not think so, because in a special case you might extend his period of office.

58,176. (Lord Dundas.) You are in favour, as I understand, of some greater consolidation as regards promotion in the court departments?—Yes.

58,177. But, as you very justly point out, there are exceptions to that. You have very rightly excepted such offices as the Justiciary Office and the Crown Office?—Yes.

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[Continued.]

58,178. And that leaves one with a very small residuum?—Yes.

58,179. That then is a very small field to embark upon a general scheme of consolidation, is not it?—It is.

58,180. There is no legal obstacle at present, is there, for such transfer and promotion as you indicate?—Not that I am aware of.

58,181. Then truly that part of your evidence comes to this, as I understand, that your society have the idea that a freer intercourse in that very limited sphere is desirable?—Yes.

58,182. As regards bringing in chiefs from outside, do you not think that the Principal Clerk of the Bill Chamber should be an appointment from outside?—I think there is a great deal to be said for that.

58,183. I will tell you why. We had Mr. Paterson here the other day—the present admirable Principal Clerk of Bills—and he told us that he had been a solicitor, and he had found it of the greatest practical benefit in his position as Principal Clerk that he should have had that experience. Do you differ from that?—Certainly not, but that goes back to the question with which I started, namely, if you have an agent's qualifications or experience you just meet that point to a certain extent.

58,184. One other question on that point. When you spoke of the Principal Clerk of Session having a general control over the Court offices, I don't suppose you intended to include such offices as the Judiciary Office or the Crown Office?—No, certainly not.

58,185. You merely intended to include the limited field of which you have been speaking?—Yes.

58,186. One other matter. You put it in your précis that the system of appointment has not been satisfactory?—Yes.

58,187. What class of appointment do you point at in that statement?—The appointments mainly of the Depute Clerks of Session.

58,188. Almost entirely?—Yes, that is so.

58,189. Is there anything else?—No, I cannot suggest any other. Of course, the Principal Clerk of Session is appointed in the same way.

58,190. That is a body of how many men in all?—Eight altogether.

58,191. And the system that you deprecate is the political element which you told us you think exists too much?—Yes.

58,192. Do you say that the public has been badly served owing to that?—I said before that the public has not been badly served.

58,193. You do not say that the public has been badly served?—No.

58,194. Then is your objection rather taken on principle or sentiment?—Might I just qualify that by saying, of course there have been instances of bad appointments.

58,195. But you find bad appointments under any system?—Undoubtedly.

58,196. I put it to you, is your objection rather one of theory and sentiment than of practical evil?—No, I will not say it is exactly theory or sentiment. There is no doubt, we think, that the principle should be changed.

58,197. Instead of theory or sentiment, shall we say it is a question of principle rather than of material importance?—It is a question of principle, but subject to this observation, as I have already said, we think you would get under the system advocated eventually a better class of men than you have got in the past.

58,198. How?—That is, without making any depreciatory suggestions about any men in the past.

58,199. You think in the past you have got good men, but if this depreciatory element was removed you might get better?—Yes.

58,200. The Lord Advocate has very wide opportunities, has not he, of acquiring a knowledge of the fitness of the men he appoints to those very limited posts you are speaking of?—I dare say he should have. I cannot answer the question "yes" or "no."

58,201. Surely you know that he has at his elbow the Solicitor-General, if he likes to consult him, and the Crown Agent, and he is in close touch from his position at the Bar with the whole Bar, including the Advocates

Depute and your own branch of the profession in numbers, has he not?—Yes, that is quite true.

58,202. What better sources of advice could a man have?—I do not think he could have any better sources.

58,203. Very well; and you do not advocate the appointment of a committee to advise him if the appointment remains with him?—I said the contrary. We think, if the present system continues, it would be an advantage if there was some check of the appointments.

58,204. If these limited appointments are to remain with the Lord Advocate, you would be in favour of some advisory committee?—Yes.

58,205. Tell me how it would be composed?—I suggested the Lord President and the Dean of Faculty of Advocates, the head of the two societies that practise in the Court of Session. If it was to be on a Civil Service basis, there should be a representative of the Civil Service.

58,206. Do you seriously say you would recommend such a committee as you suggest to control or advise the Lord Advocate?—I think the whole thing is too small for a committee in any case.

58,207. You are giving evidence, not I?—I am only to give evidence according to the conditions that are there, and I think that, as a matter of principle, there should be some check.

58,208. I am putting the question to you, do you seriously say that it would be an improvement applicable to the circumstances to appoint such a committee as you have suggested?—I do not think there should be a committee myself, and I do not think the society think there should be such a committee; but, as I said before, we think that the appointment should be vested in the head of the Court.

58,209. (*Chairman.*) I understand you to say that if the appointment remains with the Lord Advocate he should have some assistance?—I think there should be some check. Whether it should be in the form of a committee or not, I can express no opinion, because I do not know what the committee would do or who would compose it.

58,210. (*Lord Dundas.*) I think we have come to this, that, in your view, a committee would not be an advisable measure?—Yes, having regard to the small number of offices.

58,211. The idea of the Lord President is quite a new one. May I ask, is it the view of your society or yourself or both?—Of the Bill Committee of the society.

58,212. Is it the idea of one ingenious mind, or is it the product of the society's collective deliberations?—I do not know that I am entitled to go into the private deliberations of the society, but the matter was discussed at a meeting, and that was the opinion that was formed.

58,213. The Lord President, in point of fact is, not invariably, but very frequently, appointed from the Lord Advocate?—Yes.

58,214. So that instead of the existing Lord Advocate being in charge of these appointments, you would have an ex-Lord Advocate very often?—That would occur, but he has undergone, as it were, a transmigration of soul.

58,215. Would the transmigration of soul operate directly?—That is a question I think that no one can answer. We consider the smaller the staff, and the smaller the number of appointments you have to make, the more need for it being the head of the Court.

58,216. I understand the limit of this transference is six or eight men?—Yes.

58,217. Do you think that the Lord President has at all the same means of knowledge of probable and desirable candidates as the Lord Advocate has?—I should say he had the same means of knowledge, and his position being always here would, I think, increase that knowledge.

58,218. I think we agreed that the Lord Advocate is in active touch with both branches of the profession?—The Crown Agent, of course, is an important official,

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[Continued.]

but unless he has great familiarity with the Civil department of the court, his position of Crown Agent is not particularly favourable.

58,219. I thought we were agreed that the Lord Advocate from his position was necessarily in close touch with both branches of the profession?—Yes, but the Lord Advocate, as you know, is always sitting in Parliament when it is in Session.

58,220. You know quite well that the Lord Advocate is here a great deal?—He is here sometimes, certainly.

58,221. The Lord President, of course, is a judge, and the head of the judges?—Yes.

58,222. From his position, would it be possible for him to be in touch with the Bar and the solicitors in anything like the way the Lord Advocate must be?—I should have thought that if the Lord President was vested with the appointment of these officials he would have the same means of acquiring a knowledge of these officials as the Lord Advocate.

58,223. And that was the footing on which the society recommended the scheme?—Yes.

58,224. One last question. The Lord Advocate is directly responsible, is he not, in Parliament?—I presume so.

58,225. And the Lord Advocate, I think you know, is also subject to the direct criticism of Parliament House?—Yes.

58,226. The Lord President is responsible to whom?—I think you have mentioned the one objection to the thing. There have been statements before Departmental Commissions that the person who is vested with this appointment ought to be directly responsible to Parliament, but, as I understand, any official in Scotland is subject more or less to the Secretary for Scotland.

58,227. Do you suggest that the Lord President is subject to the Secretary for Scotland?—No, I do not suggest anything of the kind.

58,228. I put it to you, do you not think it is a very serious criticism of your proposal that the Lord President is not, as a matter of fact, responsible to anyone?—I think it is a very small matter. It just goes back to what I started with, that the Lord President, as head of the Court, if he had the power to select nominees, would do it to the sole good of the public service.

58,229. It is a very small matter?—Yes, and the smaller it is the more I think he should have the appointment.

58,230. (*Miss Haldane.*) I suppose the Lord President would correspond very much with the Lord Chancellor?—I don't know very much about the position of the Lord Chancellor. Of course, in the case of the Lord Chancellor, he has a vast number of appointments.

58,231. (*Mr. Clynes.*) The suggestion has been made that the service of the staff under the Sheriff Clerk might be treated as an equivalent to a law apprenticeship. Would not that meet your point of having an opportunity of acquiring general knowledge and experience?—Your question refers to Sheriff Clerks?

58,232. Yes?—I am not giving any evidence with regard to Sheriff Clerks, and my society did not instruct me to do so.

58,233. (*Mr. Boutwood.*) I understand that this system of appointment referred to by you as not being satisfactory relates to half a dozen Clerks of Session?—It is rather more than that, because it takes in the Crown Office and the Justiciary Office too, as well as the Bill Chamber and Extractor's Office.

58,234. I may have mixed up things, as I am not familiar with the Scottish organisation. But does not that sentence about unsatisfactory appointments refer chiefly to the appointments made of the Lord Advocate's clerks. We have had evidence that when a man is made Lord Advocate, he puts his clerk into one of these appointments. Is that the particular thing you have in your mind in that sentence?—The particular thing we had in our minds was the answer to the ques-

tion put in this paper, but that is, no doubt, what we had in view.

58,235. (*Sir George Paul.*) I suppose we may take it that, in certain respects, the Lord President may be considered in a sense equivalent to the Lord Chancellor in England?—Yes.

58,236. As regards responsibility to Parliament, I suppose it would be only in the event of a very bad job that Parliament would take it up?—I should think so.

58,237. Have you ever heard, in the course of your experience, of Parliament challenging any appointment?—No, never.

58,238. So far as I can see, there is not much substance in that?—I do not think so at all.

58,239. You spoke of the deutes. Do not these appointments include also the cases of the assistant clerks and the ordinary clerks?—Yes.

58,240. But you confined yourself to the deutes?—That was with regard to promotion. Of course, the whole staff altogether amounts to about 51.

58,241. Yes, but promotion and appointments go together?—Yes.

58,242. And the idea of this society was that if it was considered desirable to eliminate the political element the Lord President, as head of the Court, and especially interested in the efficiency of its officials, would be the right man to make the appointment. It was not contemplated that he should personally concern himself with such preliminary details as publication of vacancies, receiving applications, and the like, but it was assumed that he would avail himself of such assistance as he might choose to call in to arrange these and the applications for his consideration?—Yes; I do not see any practical difficulty in the Lord President taking such a place.

58,243. It was simply to eliminate the political element?—Yes.

58,244. (*Mr. Graham Wallas.*) I have here a list of the five depute clerks in the Outer House, and four of these five gentlemen I understand were Lord Advocates' clerks, one at the time of appointment being 67 years of age. It is true, you have told us, that the Lord Advocate has access to the best possible advice, but it would appear that in four cases out of five either they advised him to appoint his own clerk, or that he has not taken their advice. A man does not choose a clerk at the age of 15 to carry his bag for political reasons, and the feeling of the Lord Advocate in such a case must have been rather more personal than political?—That is a just opinion.

58,245. You also suggest that these men should be prohibited from engaging in private practice or being partners of such firms. Your society would not have asked for that unless they thought it was necessary?—Yes.

58,246. And unless they had evidence that some of the 51 persons in this list were in that position?—They treat that as a matter of principle.

58,247. Have you in your mind any case in which that rule is now necessary?—I understand that one member of the staff carries on a private practice, but I do not know directly of my own knowledge.

58,248. (*Chairman.*) The observations you have made with regard to the Lord Advocate and the change in the system of appointments would apply directly to the appointments in the Court of Session?—Yes.

58,249. A similar question arises with regard to other appointments on a much larger scale?—I have no doubt.

58,250. Would your observations apply in principle to those appointments also?—In principle, I think so, necessarily, but of course I have no right to give evidence on that point.

58,251. But the particular recommendation as regards the Lord President would apply to the offices of the Court of Session?—Yes, entirely.

58,252. You have been good enough to give us a memorandum with reference to the office of the Keeper of the Signet and a statement of the receipts and expenditure of that office. Is it the case that the receipts from fees are sufficient to meet the expenses of the office

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and to leave a considerable margin, which is paid into the Exchequer?—That is so; the expenses of the office are well covered and there is a handsome surplus.

58,253. (*Sir George Paul.*) The receipts are from two sources. There are the signetting fees and there is the contribution of 50*l.* from each member as he joins the society?—Yes.

58,254. And these contributions from members of the society not only pay all the expenses of the office, but contribute a surplus which, with the gross amount of fees of signetting, goes to the Exchequer?—Yes.

58,255. So that truly the officials of the Signet Office are paid out of contributions from the members of the society?—That is so.

ONE HUNDRED AND THIRTY-NINTH DAY.

Thursday, 10th June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.
Sir DONALD MACALISTER, K.C.B.
Sir JOHN ARROW KEMPE, K.C.B.
Sir GEORGE MORISON PAUL.
Mr. ARTHUR BOUTWOOD.

Mr. JOHN ROBERT CLYNES, M.P.
Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

Mr. CHARLES CORNELIUS MACONCHIE, K.C., Sheriff of the Lothians and Peebles, called and examined.

58,256. (*Chairman.*) You are Sheriff Principal of the Lothians and Peebles?—I am.

58,257. Have you previously been Sheriff Substitute in Edinburgh?—Yes.

58,258. You have, therefore, considerable experience of the system of Sheriff Courts in this part of Scotland?—Yes.

58,259. You were also a member of the Departmental Committee on Minor Legal Appointments, and I think you signed the Majority Report?—Yes.

58,260. Will you tell us first what you think are the qualifications necessary for the staff of the Sheriff Courts?—Well, I think that what is chiefly required of the Sheriff Clerk and his staff is official experience. I do not think that any great knowledge of law, more than what can be picked up in a long experience, is necessary, and, therefore, I do not think it is necessary that the Sheriff Clerk should have the qualification of a law agent. His duties now are really those of a clerk, whatever they were in the past, and what he requires to know is the procedure of the ordinary Sheriff Court—the procedure under the numberless Acts of Parliament which come before a Sheriff Court—to be able to write the merely formal interlocutors of the Court, and how to grant warrants and so on—all the purely clerking work.

58,261. In your view it is knowledge of procedure rather than of substantial law that is necessary?—Yes. It is the business of the Sheriff and the Sheriff Substitutes to know the law, and it is the business of the Sheriff Clerk to be able to advise them in procedure and keep the cases and administrative work on the proper lines.

58,262. There is also some book-keeping, I understand?—There is very considerable book-keeping.

58,263. Considerable in amount, but, I suppose, simple in character?—Well, they have to keep a number of books. For example, they have to keep books of the fees in various courts. The Small Debt Court, for instance, is a court by itself; they are kept separate from the fees of the Sheriff Court proper; and, of course, there are books of the fees of the Sheriff Court itself. Then, under the Workmen's Compensation Act, there are large sums which are paid in to the Sheriff Clerk, and he has to deposit them in the Post Office, and the Postmaster-General will not allow anything to be uplifted from the money deposits that there are under the Act unless they are signed by the Sheriff Clerk himself. That is one of the only two things that the Sheriff Clerk must do himself. In all other cases the Sheriff Clerk's Depute can act for him, but in that case the

Postmaster-General will not accept any receipt unless it is signed by the Sheriff Clerk himself.

58,264. Your conclusion is that, for the higher positions of that service, experience in the office of the Court is more important than legal knowledge?—Yes.

58,265. Is there any difficulty in finding men to fill these posts at present?—I believe in the country districts there is very great difficulty. In Edinburgh I have never heard that there was difficulty, and certainly we have got an excellent staff there just now; but in the country districts, where the pay is very small indeed and where there are no prospects practically of promotion, it is, I believe, very difficult indeed to find suitable men; and I may also say that when you do get a young man of promise, the better he is the more certain he is to go away after he has gained a certain amount of experience.

58,266. What do they go to?—To anything; into mercantile offices—anything rather than stay where they are, because really they have got no prospects of promotion and no increment on their salary as the years go on.

58,267. You think it important from that point of view to improve the conditions of service in the offices of the Sheriff Courts?—I think that the financial difficulty is perhaps at the bottom of the whole difficulty.

58,268. The Procurators Fiscal are to some extent subordinate to the Sheriff, are they not?—The Procurator Fiscal and his office are no part of the Sheriff Court at all. He is the servant of the Lord Advocate, and for the main part of his duties—almost his entire duties—he takes his orders from the Lord Advocate through Crown counsel, and he does all remits to inquire into complaints and so on. There is one thing in regard to which he is still in the Sheriff Court, and that is what his name means, the "Procurator Fiscal"; he acts as clerk to the Fiscal Authorities. The Sheriff is responsible for collecting the fines and penalties, and the Procurator Fiscal is his servant to that extent, that he has to collect and account for them to the Crown. But that, I think, is the only way in which the Procurator Fiscal comes into the Sheriff Court at all, and that is not properly in the Sheriff Court.

58,269. Has that double relation created any inconvenience in practice?—Not that part—I think not. It works absolutely automatically.

58,270. What are the qualifications that you consider to be required for a Procurator Fiscal?—There, I think, a knowledge of law is the principal consideration. He has to investigate suspicious cases and cases

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that are clearly criminal, and he has to conduct the trials in court; he also has to judge of the relevancy of evidence and to know the laws of evidence so as to be able to conduct the cases and to advise the Lord Advocate—I mean, he has to send in such reports as will enable the Lord Advocate to know whether or not there is a legal case against the person, and these criminal proceedings lead into every department of Scotch law, I may say. For instance, shipping law he requires to know, because of cases which may result in charges of culpable homicide. Collisions, and so on—he requires to know the law there, and, in fact, everything that is laid down in the Merchant Shipping Act. Then, for instance, bigamy, that leads you into marriage law; and there are various cases that lead you into the law of incest. There are very, very few branches of the law that he does not require to know about. Bankruptcy he must know, and then he must know mercantile law, too, because cases of embezzlement very often lead into difficult questions on that point.

58,271. Can the necessary knowledge of those things be acquired by the clerks in the Procurator Fiscal's Office, or can they be better acquired in the outside profession?—Well, personally, I do not think a man can be a properly equipped Procurator Fiscal unless he has gone through a real legal training; such a training as is involved in getting the degree of law agent; although, I am bound to say that there have been men who have been admirable Fiscals, who, I believe, were not law agents and never have been.

58,272. Do you consider it desirable or not to make the law agent's qualification an absolute requirement for the Procurator Fiscal?—Well, personally, I should require the law agent's qualification myself, but this really is a question for the Lord Advocate. I am only saying that from what I know of the necessities of the case, the Procurator Fiscal ought to be a qualified lawyer.

58,273. The question has an important bearing on the organisation of the service. If any idea of promotion is to be carried out it might be difficult to make the law agent's qualification indispensable, because it would be difficult for persons who entered the Procurator Fiscal's office at an early age to acquire the law agent's qualification?—I think it is only when you come to the top that you must have a thorough knowledge of law on many points, and, however it is done, I think that the qualifications should be there.

58,274. The law agent's qualification in itself hardly ensures a thorough knowledge of all branches of law, does it?—No, I do not think it does; certainly not.

58,275. As a general rule the law agent's qualification is merely the door of entrance, and the legal knowledge is largely acquired afterwards?—Well, it ensures a knowledge of the bones of law, and experience will put the flesh on afterwards. But then, I think, it is very often necessary, in country places especially, to introduce outsiders, as they have been called, to be Procurators Fiscal, because it is an immensely important position, not only to the criminals, but to the public and to the Lord Advocate, and it is one where you must have a man of high standing, because the investigations that he has to make are highly confidential in many cases, and he must be beyond the possibility of giving away information, and the higher you can put his qualifications, I think, the better for the office.

58,276. Do you consider the present system of appointment of the Sheriff Clerks and Procurators Fiscal satisfactory?—I think on the whole it is, but there are certain changes which I should personally wish to make, and they are really very much embodied in the recommendations of the Departmental Committee. I think that certainly if there are two classes of deposes as we point to there, that those appointments should be made by the Secretary for Scotland. I am talking just now of Sheriff Clerks and Sheriff Clerks Depute.

58,277-8. Dealing first with Sheriff Clerks and Procurators Fiscal themselves, and, leaving aside for the moment the question of their staff, we are told that at present the appointment of Sheriff Clerks is made by the Secretary for Scotland on the advice of the Lord Advocate?—In the case of Sheriff Clerks that is so:

in the case of Procurators Fiscal it is made by the Lord Advocate.

58,279. We have also been told that the appointments, as a rule, have been political?—Well, it is rather difficult to say that. I know many cases where they have not been political. For instance, my Sheriff Clerk in Edinburgh had no politics. He had been over 20 years a depute, and he was appointed chiefly on that consideration. That was the proper man to be appointed, and he was appointed. To take another of my Sheriff Clerks—the case of West Lothian—when a vacancy occurred there, there was no man in the office that the Lord Advocate thought was fit to be appointed Sheriff Clerk, and, personally, I was of the same opinion, although my opinion was really not asked. However, I also thought that that was the case, and there was a man appointed to the position who had been the political agent for the preceding Lord Advocate—the present head of the Court. He was appointed for political reasons possibly, but he was the man practising in the Sheriff Court who, in my opinion, ought to have been appointed, so it is very difficult to say that that was a political appointment. Personally, I know no case, and have not heard of one, of the appointment of a political friend by the Lord Advocate where an inferior man has been given the appointment simply because he is a political man, and I know no case where the appointment has not proven a success. I do not think that it is necessarily a bad appointment because the man is a political friend.

58,280. Can you tell us what number out of the whole of the Sheriff Clerks and Procurators Fiscal have been appointed on purely non-political grounds?—I am afraid I cannot answer that question.

58,281. You cannot give us any idea?—I cannot give any idea, I am afraid, because I do not know the circumstances.

58,282. There have been several cases of promotion among Procurators Fiscal lately?—Yes, there have.

58,283. Is that regarded as something of an innovation?—I never heard it called so. Everybody has always wished that it should be so when there was a good man, and very frequently it has occurred.

58,284. But has it occurred frequently in past years?—We had evidence of several cases in regard to the Procurator Fiscal in the Departmental Committee. I think Banff was one, but I could not say for certain. But, as I say, the Procurator Fiscal is such an important position that it is for the Lord Advocate to find a man that he can trust, and that the Sheriff really has nothing to do with it now. Before the year 1907 the Sheriff made the appointment, but he had to do so with the consent of the Lord Advocate, and if the Lord Advocate did not approve, he simply said, "Well, your man will be appointed, but I will not pay the salary."

58,285. You adhere to the views which lay behind the recommendations of the Committee on Minor Legal Appointments that, in the case of the Sheriff Clerks, it is undesirable that the principle of appointment should be political?—Yes, if "political" means that you are going to take an inferior man because he is a political friend. But supposing that in the Sheriff Clerk's office there is not a man who is fit to be put up, and there are men who are clearly the best among outsiders, then I cannot say that I disapprove altogether of the Lord Advocate choosing the man of whom he presumably knows the most, or can find out the most from his own friends.

58,286. But the recommendation of the Committee was to the effect, I think, that the higher posts in the Sheriff Clerks service should be filled by promotion in the staff if there are competent persons, and not by the appointment of persons from outside. The Sheriff Clerks themselves were not included in the reference. The principle laid down there as regards the deposes, in your view, should be applied with regard to the Sheriff Clerks also?—I think certainly it is always much better to have promotion if possible, but the real difficulty is that in many parts of Scotland you have not a suitable man to promote, and then, of course, you must go to outsiders.

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58,287. If there is no suitable person you must go elsewhere?—Yes.

58,288. But even if you go elsewhere the motive which should guide the selection would be that of choosing the most suitable person and not the person who happened to have rendered political services?—Yes, I think so; but I might personally add that it must be remembered that when you promote a man to be Sheriff Clerk, I suppose in all cases that would be held to be promotion; and when you promote a Sheriff Clerk Depute to be Sheriff Clerk Principal that is also promotion. Now, I do not think it would be good for the public that you should promote a Sheriff Clerk Depute, say from Glasgow or Edinburgh, to be Sheriff Clerk in some small place, say, in the north, because there you are losing the services of a very good man and all his experience in putting him into a place where that experience is not being utilised to the fullest extent, if at all.

58,289. Of course, the system of transfer and promotion would require to be worked with discretion?—Yes, very much so.

58,290. But there would be opportunities of promoting a depute from a small place to a middle-sized place, and from a middle-sized place to a larger place?—Yes, I think so. It would be very difficult to work, I think, but at the same time I think that that makes a very good idea.

58,291. Dealing still with the question of the principle of appointment, and starting from the point that it is desirable to do away with the political method of selection, what steps do you think could be taken to secure that that should be done?—I do not think there are any steps that could be effective. I think you must leave it to the Lord Advocate and the Secretary for Scotland to appoint the best men, and I think we are entitled to assume that they will do so. As I say, I do not think they have misused their authority up to this point.

58,292. No, but they have used their authority on a certain recognised principle, that principle being, as we understand from previous witnesses, that so long as a competent man is appointed it is perfectly legitimate to take into account the political services he has rendered?—Yes.

58,293. We have been told by several witnesses of weight that it is desirable to alter that system of appointment. I understand you agree with that view?—No, I do not think it is desirable to alter the principle. If the principle is promotion only, occasionally—in fact, fairly frequently—occasions arise where you cannot get a man to promote, and then, of course, you must fall back on someone else.

58,294. What I understood you to say was that even where appointments have to be made from outside, the ground of selection ought to be the greatest degree of fitness for the post, and not the fact of political services previously rendered?—Yes, I think that, certainly.

58,295. Well, the principle hitherto has been, as we understand, not necessarily the greatest fitness for the post, but fitness for the post coupled with political services?—It is hardly for me to say that I think that the Lord Advocates have been entirely wrong. I do not agree that they have done wrong. So far as I know, there is no case where a notoriously inferior man has been appointed.

58,296. No, that is not suggested?—Well, where there are two equal men, I do not see why the man whom the Lord Advocate presumably knows most about from his own experience or from the experience of his friends, should not be chosen.

58,297. It would be a curious coincidence, would it not, if when a particular Government is in office, the most competent persons for certain posts should always happen to be persons who have taken an active part in politics on the same side as the Government, and not persons who have taken a part on the other side, or persons who have not taken a part at all?—I suppose it would be, putting it that way, but it is very difficult to say, in a small community where there are possibly two or three outstanding procurators practising before the Court—it is very difficult to say which of these men is

most fit for a position of this kind, and especially is it difficult for the Lord Advocate, who just has to take other people's opinion, and he naturally goes to his own friends and they say, "Well, these are all very good men."

58,298. It has been suggested in connection with similar problems in England that the appointing authority should be assisted by a committee of persons occupying an impartial position, some of them connected with the department in which the appointment was to be made; that this committee should report on the qualifications of candidates, and that the appointing authority should make the selection after taking into account the report of the committee. Do you think a system of that kind would be well in Scotland? Would it be well in your opinion for the Lord Advocate to have the advice of an impartial committee of that kind?—At present he always has the advice of the Sheriff, who really does know the people who practise before him, and if he does not know already he can very easily find out the qualifications of the men in his office. But I certainly do not approve of any system by which the responsibility of the Lord Advocate or the Secretary for Scotland is to be put into the hands of a committee, because the Lord Advocate or the Secretary for Scotland are responsible to Parliament in the first place for their appointments, and if there is a notoriously bad appointment they can be had up in the House of Commons for it. The idea of a committee, I think, is exceedingly bad, because I think it would only lead to an increase of the political wire-pulling, or wire-pulling not necessarily political, and the Lord Advocate would only be the one to give the final voice to a committee who had all been approached. Personally, I think the division of responsibility would be very bad indeed, and I may say that in Scotland where we have one system of committee appointments, I do not think anybody would say that it has proved satisfactory, and that is the committee for appointing Justices of the Peace. It is well known in certain places to be very difficult to get a good committee to begin with, and very difficult to get Justices of the Peace of the same class as used to come forward. In fact, in one of my sheriffdoms it is so difficult to get a committee who would undertake that sort of work that no committee has ever been appointed, with the result that there are almost no Justices of the Peace in the county at all, because the Lord Lieutenant says he has no power to do it except through the committee.

58,299. (*Miss Haldane.*) Is that an advisory committee or an executive committee?—It is an advisory committee.

58,300. (*Chairman.*) The suggestion I referred to in the case of English appointments was that there should be a purely advisory committee, and that the responsibility for the appointments should rest with the Minister. Is the committee for appointing Justices of the Peace a recent creation?—Yes, it was created about five or six years ago. You see, Justices of the Peace still go through the Lord Chancellor. It used to be done by the Lord Lieutenant, and he appointed the men who he thought ought to be Justices of the Peace, and then he was told that they were not to be appointed by him alone; that there was to be an advisory committee, and that they were to advise the Lord Chancellor, and the result, as I say, is not proving satisfactory.

58,301. (*Sir Donald MacAlister.*) Is it not the case that the office of Justice of the Peace in Scotland is largely an honorary position?—I think not. Of course, your experience may be different from mine. They have Small Debt Courts, and every time they sign warrants, and so on, they take on personal responsibility.

58,302. But the office of Justice of the Peace in Scotland is not one corresponding to that of Justice of the Peace in England, so far as the extent of the duties is concerned?—I am afraid I do not know the duties of a Justice of the Peace in England, but they have all the duties that any statute puts upon them.

58,303. (*Chairman.*) You think, judging from the experience in that case, that it would be difficult to obtain an independent and impartial committee whose

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advice would be of value to the Lord Advocate and to the Secretary for Scotland in making appointments of this kind?—It is only partly proceeding on that case. My objection goes much deeper than that. I dislike dividing the responsibility in that way, but if you are going to have a committee, it must be a committee on which there are representatives who know the local conditions of every one of the sheriffdoms. That would make it a very large committee, otherwise I think it would be useless.

58,304. The kind of committee that was contemplated was a very small committee of three or four persons, who naturally would not know the local conditions of every place, but would have means of information at their disposal?—Their means of information would be exactly the same as the means of information which the Lord Advocate or the Secretary for Scotland has now: that is to say, they would have to go to the Sheriff. I presume, of course, there would be a vacancy in the Sheriff Clerkship. Therefore, it would boil down his responsibility, and would not get any more really valuable information than the Lord Advocate can get at present. Personally, I do not see how you can get a committee that would have the necessary knowledge, or could get it except in the same way as that in which it can be got just now.

58,305. Returning now to the question of promotion, you told us that you think it advisable, in order to improve the position of the service in the Sheriff Clerks' offices, that members of the staff should as far as practicable be eligible for promotion from one office to another as well as in their own office?—As a matter of fact, they are at present.

58,306. They are at present eligible, but does promotion by means of transfer often happen at present?—I do not think it often happens. It is very difficult to bring the two people who make the appointment together really.

58,307. The Committee on Minor Legal Appointments recommended a reduction in the number of Sheriff Clerks, so that there would be 15 instead of 33, as at present. That reduction would, to some extent, simplify the question of promotion and transfer, would it not? It would in the first place increase the size of the service under each Sheriff Clerk, and, therefore, make it possible for him to promote by transfer from one place to another within his own district. Would it also simplify the problem of promotion from one Sheriff Clerk's district to another?—I do not know that it would, really.

58,308. Would it not simplify it to this extent, that the smaller the number of persons who have to deal with the question, the easier it becomes?—Yes.

58,309. The suggestion has been made that a small committee of three or four of the principal Sheriff Clerks could with advantage be created for the purpose of dealing with questions of promotion and transfer?—I was not aware of that.

58,310. Does that strike you as a good suggestion?—Personally I think that is not a bad idea at all.

58,311. I understand the sheriffdoms vary very much in size?—Yes.

58,312. So that three or four of the principal Sheriff Clerks would in their own districts probably cover more than half the whole service?—That is so.

58,313. They would also have means of obtaining information from their colleagues as to the other districts?—Yes, but then there is always the difficulty that I do not think a man who has got his training in the smaller places could ever, from his training, be fit to become a depute, say, in a busy court like Glasgow or Edinburgh or Dundee. I mean that I think the promotion would have to go on on two or three different lines—among the men trained in a big court, in a middle court, and a small court.

58,314. Is not the position this, that there is not a clear line to be drawn anywhere between the big and the small courts? There is a steady increase in size, with a corresponding change in the character of the business, from the smallest place to the largest?—Yes, that is so.

58,315. Therefore there would always be the possibility of promotion to a place not necessarily precisely of the same character, but of somewhat similar

character?—I heard of one case the other day. One Sheriff Clerk went in to the next Sheriff Clerk and said, "Have you a man you can give me?" and he said, "Yes, a very good man"; and he went into the adjoining Sheriff's office.

58,316. The system suggested would amount to a generalisation of that kind of procedure?—Yes.

58,317. The procedure would be something of this kind: if a Sheriff Clerk in one sheriffdom had a vacancy for a senior clerk, if anyone in his own office were suitable for the post he would promote him; if not, he would go to the committee and ask if they would give him a man from some other Sheriff Clerk's office?—I had not thought of that, but it seems to me that there is a good deal in it.

58,318. Would a similar arrangement be applicable in the case of the staff of the Procurators Fiscal?—Really I do not like to say that, because, properly, the Procurators Fiscal and their clerks are not my servants at all. Personally, however, I rather doubt it.

58,319. (*Miss Haldane.*) May I ask the reason why there would be a difficulty?—Because the investigations that the Procurators Fiscal and their staff have to make in one district are entirely different from those they have to make in other districts. The class of crime in a place like Sutherlandshire, for instance, is entirely different from the class of crime in Glasgow or Dundee, and I doubt very much whether the man trained up in Sutherlandshire would be at all fit to carry out an investigation into a commercial crime, for instance. However, as I say, it is not a subject on which I can give my opinion very strongly, because it is not a branch of the Sheriff Court work proper.

58,320. (*Chairman.*) Turning now to the question of the organisation of the Sheriff Clerks and their staff, you told us that you adhere to the recommendation of the Departmental Committee as to the reduction of the number of Sheriff Clerks?—Yes.

58,321. The Sheriff Clerks, when so reduced in number, would, I suppose, be all whole-time officers?—Yes.

58,322. Would you restrict them from taking private business of all kinds?—I think if they were so far reduced in number they would have sufficient work to occupy their full time, because they would have to make investigations into the courts of the deutes that are under them, and they would have to see that their books were right and exercise a general supervision, which would take them away a good deal from their offices. There is only one article of consideration which I do not quite adhere to in our recommendations: of course, it is merely a matter of detail. The article which I refer to is No. 6, "That the Sheriff Clerks should no longer be called upon to act as clerks to the process in the civil courts, or to attend as clerks in the criminal courts in the sheriffdom, but that in other respects their duties should remain as heretofore, and they should be made responsible under the Sheriff for the supervision, direction, and discipline of all the Sheriff Courts in the sheriffdom." I should like to leave that out, because if they had any spare time it would be a good thing both for themselves to occupy their time and for the Sheriff to have the Sheriff Clerk there; and if they had time I think they should act just in the same way as before. Of course, it is a mere matter of detail, but I should like to leave that article out.

58,323. In other respects you adhere to the recommendations of the Committee?—Yes.

58,324. I suppose the deutes would not all be whole-time officers?—I doubt that.

58,325. The Committee suggested that there should be a special class of deutes who should be whole-time officers?—Yes.

58,326. Would that be a large proportion of the class? I do not think the Report gives any indication of the proportion?—Well, that is a thing that I cannot speak of, as to the exact numbers, but it is practically all the ones where there is a court at present with a Sheriff Clerk, which court would be done away with and the deutes in places like Edinburgh, Glasgow, Dundee and Aberdeen, where the deutes now have sufficient work to occupy their whole

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time. That would be the special class, and if the growth of business in any particular place was such as to justify a depute in the special class being put there, then, of course, that would have to be done.

58,327. In other places you would just leave the deputies as part-time officers?—Yes, as part-time officers and as appointed by the Sheriff Clerk.

58,328. The special class, you suggest, would be appointed by the Secretary for Scotland instead of by the Sheriff Clerks?—Yes, I think so—always supposing that their financial position is made better.

58,329. You suggest changes in the system of payment?—Yes.

58,330. Do you suggest that the staff should be paid salaries on a fixed scale instead of salaries fixed by the Sheriff Clerk out of a lump sum?—Yes, for the special class of deputies.

58,331. What would be your recommendation as regards the payment of the Sheriff Clerk's staff—the subordinates?—I think they should be paid by the Sheriff Clerk or through his hands, but that the King's Remembrancer should keep a much stricter eye upon the division of the allowance that is given to the Sheriff Clerk and say, "Now, you must pay this man so much" and this other man so much."

58,332. To what extent would the subordinate staff be whole-time officers? Would it follow the same rule as their principal: that where the Sheriff Clerk or the Sheriff Clerk Depute was whole-time the subordinate would also be whole-time?—The Sheriff Clerk now, if he appoints a clerk to help him, appoints some man who has a certain amount of leisure, unless he requires his whole time. Of course, if he requires his whole time he has a man of his own: if not, however, as I say, he appoints some man who has a certain amount of leisure. In Peebles, for instance, he brings in a man for so much time, not necessarily day by day, and he just pays him for the work he does.

58,333. If the salaries of the subordinate staff are to be fixed with the cognisance of the Treasury or of the King's Remembrancer it would be necessary for him to know how much time each individual member of the staff is devoting to the work?—Yes, but I do not think that he need require to go down to the very bottom, because it is almost impossible to know what is paid to everyone. If a man has two boys, for instance, he would have to account to the Remembrancer for the whole of what he was allowed for clerks.

58,334. The Committee recommended that the special class of deputies should be pensionable. Although Sheriff Clerks were not within the Committee's Reference, it may be inferred, I think, that they thought Sheriff Clerks should be pensioned also. Is that your opinion?—Yes.

58,335. What should be the position of the subordinate staff with regard to pension?—I do not think until they get into the special class or become Sheriff Clerks that they should be pensionable. We make a recommendation that all promotions into the special class should be from the class below, and that holds out the prospect of promotion and higher pay, and would, I think, induce better young men to come into the office and to stick to it once they were there.

58,336. With such a system do you consider that it would be within the reach of all competent members of the staff to become deputies of the special class before retiring?—Of course, that depends on the amount of vacancies there are above them. At any rate it would hold out a reasonable hope, I think.

58,337. My point is this, that if there is any large proportion of the subordinate staff who could not expect to reach these special posts, the problem of what is to happen to them when they are past their work still remains?—Yes, but they are not public servants in the sense that the two higher classes are. What I feel is that it is not proper that the country should allow very important officers as these are to be, through illness or age or any other cause, to go out into the world without anything, and having had no power of saving on the small salaries they have got. But that seems to me distinctly a right line to draw between those higher officials who are public servants and those who are not public servants but are simply

employed as clerks by the Sheriff Clerk himself, just as in an ordinary office.

58,338. You consider that that position can fairly be maintained, and that the improved prospects suggested would render the service sufficiently attractive to get the right kind of men into it?—I think so, coupled, of course, with an increased rate of pay.

58,339. You think that the pay at present in the lower grades is inadequate?—I think so.

58,340. Is it low compared with the scale of pay in use in private law agents' offices?—I cannot say. It is very, very small, however. Might I cite just one case. The Sheriff Clerk of Peebles, who has been 19 years there, gets a salary and allowance combined of 225*l.* a year. He has to pay a depute out of that, because there must be somebody there to take his place if he is ill or if he is on holiday. As a matter of fact, he has not had a holiday away from the telephone for many years. Now, what he does do is that he pays 85*l.* to a depute, who comes in when necessary, and his depute, as a matter of fact, is now away at the war, and all the assistance he has got is a young boy, utterly unqualified, who comes in at a very small sum.

58,341. But I suppose that his work does not occupy his whole time?—Well, he is not allowed to take private practice. His predecessor was.

58,342. Does he hold any other office?—He holds the office of Clerk of the Peace, and he is appointed Auditor of the Sheriff Court by the Sheriff, but he gave up private practice when he first came 19 years ago, because he was led to understand that his salary and allowances would be reconsidered, and, as a matter of fact, Lord Dunedin—Mr. Murray as he then was—in 1898 recommended an addition of 150*l.* a year. Nothing, however, has been done since that at all, so that he really has not a wage for himself, far less for his assistant.

58,343. The clerkship which he has—is that a small matter, too?—I do not know, but I think the remuneration is only some 30*l.* or 40*l.* per annum.

58,344. (*Miss Haldane.*) Would he be allowed to take work under the School Board, for instance?—I think not. He is debarred from everything in the way of private practice.

58,345. (*Chairman.*) Do you consider that if the system were changed in the manner you suggest it would interfere with the control that the Sheriff Clerks have at present of their staff?—I do not think so myself at all. In fact these subordinate clerks would be under him in exactly the same way as the officials are now.

58,346. At present the Sheriff Clerk is responsible for the intrusions of his subordinates?—Yes.

58,347. Would you maintain that responsibility?—Yes, I think the special class would have to find caution.

58,348. Do you attach any importance to the responsibility of the Sheriff Clerk for his subordinates?—Yes, very much so.

58,349. Are there many cases in which it is enforced?—Well, I have had one or two myself. I may say that there is one Sheriff Clerk Depute in my sherrifdom who gets 85*l.* a year, and he cannot do any other business. The result of that has been that three successive ones, not having enough to live decently upon and not being allowed to take other work, have gone hopelessly to the bad. The last of them, I may say, committed suicide not three months ago from the evil habits that he contracted because of that.

58,350. In those cases was the Sheriff Clerk made pecuniarily liable for their intrusions?—Oh, I do not think there was any defalcation at all.

58,351. In what respect was he liable?—Only in respect that he brought it to the notice of the Sheriff.

58,352. My question had reference to the pecuniary responsibility of the Sheriff Clerk for the intrusions of his subordinates?—Well, I have not had any case in my own personal experience. There was some evidence given by at least one—I think it was in Aberdeen, where the Sheriff Clerk had to pay up for the defalcations of his subordinates; but, as I say, I have no personal experience of that myself.

58,353. Do you think the pecuniary responsibility makes any practical difference to the control of the

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Sheriff Clerk over his staff?—There is no doubt that it makes him naturally more careful.

58,354. Is he any more careful, do you think, because of his pecuniary responsibility?—Well, personally, I should be.

58,355. Does he in practice usually require his staff to find caution or to insure against defalcations?—No, not here, but in Glasgow they do. By Glasgow I mean Lanarkshire.

58,356. You have told us that you are not prepared to give evidence with the same confidence about the Procurators Fiscal as you do with regard to the Sheriff Courts; but the question has been raised whether the number of Procurators Fiscal could with advantage be reduced. Are you prepared to express an opinion on that point?—Well, certainly I should say "No" in any part that I am personally acquainted with. The more extended the jurisdiction of a Procurator Fiscal is the more dangerous it is if there are crimes committed widely apart—fires, or sudden deaths, or any of the inquiries that Procurators Fiscal have to make—because, as I say, they are very confidential and they are very intricate, and therefore I think that although crime may not arise you cannot legislate for that, and you must have a first-class man in a district which he can work, and if you enlarge his district, either through population or through distance, you are very apt to make a very important position impossible.

58,357. Are all Procurators Fiscal at present debarred from private practice?—Yes, I think so. Well, I must qualify that; at Peebles he is not. When the man at Peebles, Mr. Buchan, was appointed, the Sheriff appointed him with the consent of the Lord Advocate. It was just after I became Sheriff Principal, and I found that I could not get a man at the figure who would take the post at all unless he was allowed to take private practice. His salary is 130*l.* a year, and he has no allowance for clerks at all. I simply had to write to the Lord Advocate to say that I could not appoint a man unless an exception was made. There are other cases—for instance, Kinross—and I think there are others besides that.

58,358. With a few exceptions, they are debarred from private practice?—Yes, that is so.

58,359. Do you think that that restriction should be maintained?—Not unless the position is so paid that a man can live upon it in the way that the Lord Advocate's executive servant ought to live. The Procurator Fiscal has not only an important position because of his duties, but, being the representative of the Lord Advocate, in country districts especially, he is looked upon as a high Government official, and for a man like that to be given only 150*l.*, or even 200*l.*, a year, seems to me not to be decent; and, unless his salary is increased very considerably, I think it would be very much better to go back to the old system, where private practice was allowed. The new rule was only introduced when Lord Kinross was Lord Advocate. I forget the date when it came into force, but I do not think in many of the small places it has been very good for the public service.

58,360. What was the reason for the introduction of that rule?—Of course, I did not know officially, but we always heard that it was because of an agitation amongst the other law agents in small places, who said that it was hard that a man should both get an official salary and should be allowed to take away some of the small practice in the place, and also that his being the Lord Advocate's executive officer there led him to have such a name that people went to him rather than to the ordinary practitioner.

58,361. Was it ever found that the public duties of the Procurator Fiscal and his private duties to his clients came into conflict?—I do not know about that.

58,362. Such cases might arise, I suppose?—I certainly never heard of it.

58,363. (*Miss Haldane.*) Why is he not allowed to do legal work for local bodies, such as school boards and so on? That would eke out his salary, would it not?—He is debarred from taking all private practice of any kind.

58,364. My question is this: Is he debarred always from taking legal work for public boards, such as school

boards and so on?—That depends entirely on his commission.

58,365. It is different in different places?—Yes. Well, I find that in Haddingtonshire, which is the only one in my jurisdiction, he is allowed to take public appointments, and I think the school board is one of them.

58,366. That, I suppose, would make a slight difference in his financial position?—Yes. I have a letter here which says, "In the case of Haddington there is a rule against taking private practice, but we are both allowed to take appointments of a public nature."

58,367. (*Sir Donald MacAlister.*) Does it cause any inconvenience in these cases, that you know of—the taking of public appointments?—No; I have never heard that there was any inconvenience when they did take such appointments.

58,368. So far as your experience goes, if the rule were extended in that direction, you think no harm would come from it?—No.

58,369. (*Chairman.*) Do you anticipate that no inconvenience or conflict of duties would result if Procurators Fiscal were allowed to take general private practice?—As I say, I do not think there was any inconvenience found when they did take it, and personally I think the debarring from private practice does not act for the good of the country.

58,370-1. With regard to the supervision of the Sheriff Courts, certain recommendations were made in the Minority Reports attached to the Report of Lord Salvesen's Committee; in particular in the Minority Report signed by Mr. Watt. Have you any observations to make to the Commission with regard to those recommendations?—Well, I certainly disagree most entirely with Mr. Watt's idea that it is necessary that the appointment should be made of a member of the Service in Scotland who should supervise all the Sheriff Courts, and that that one should be the highest paid official among the Sheriff Clerks. It seems to me, in the first place, that that is not required, because the Sheriff is responsible for the way in which the business is done in his court, and the Sheriff Clerk is responsible for the way in which it is done under him; and I have never heard that that has acted badly or that the supervision of the work has not been efficient. Then, as regards sending a man—one of the Sheriff Clerks—in the first place I do not think that you could put the Sheriff Clerks of the remaining 32 counties, who are all heads of their own courts and all responsible, under the supervision of one of their own number, who differs from them in nothing except that he gets a higher salary. And, in the third place, it seems to me that it would put the Sheriff Court of the highest-paid official—which would probably be the class where the necessity of a first class man being perpetually there is most clamant—it would put it in a hopeless position, because this man would be running about all over Scotland supervising people of whose system of work he knows nothing, because the system is quite different in a small court, of course, from what it is in a large court, and the requirements are quite different in a small court from what they are in Glasgow, for instance. It seems to me that he could not do it, and, even if he could, it would, in my opinion, be most inadvisable.

58,372. So far as some unifying body is required, the small committee of Sheriff Clerks which has been suggested would supply all that is wanted?—I think so.

58,373. A recommendation on the same point was made in Sir William Haldane's Minority Report, was it not?—Yes; only what he wanted to do was to create a new paid billet of one man who was to go all over Scotland and to see that all the Sheriff Clerks were doing their work and that all the Sheriff Clerks' staffs were doing their work. Personally, I think that is absolutely unnecessary. At present, as I say, the Sheriffs are responsible, and there is never a complaint, well grounded or ill grounded, that does not come before him sooner or later, and in all the cases that I have come across the Sheriff has been able to put the matter right; and, of course, a man coming round like that could not have the knowledge of all the Sheriff

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Courts and their local necessities in the way that the individual Sheriff and the Sheriff Clerk of the district can. He would be absolutely useless in my opinion.

58,374. Mr. Watt also suggested that a Sheriff Clerk should no longer be allowed to act as auditor. Do you agree with that?—No, very far from it. I have been making inquiries from a number of my brethren, and they all think—and I certainly think myself—that it is a most admirable thing that the Sheriff Clerk should be auditor, except in a place like Edinburgh where the Sheriff Clerk has not time to do it. In country districts, however, it gives great confidence in the district if the auditor is the Sheriff Clerk, because he is known to be impartial, because he is an high official, and it gives great confidence to the Sheriff himself to know that he is remitting a bill of costs to a man in whom he has confidence.

58,375. (*Sir George Paul.*) It is generally the Sheriff Clerk or the Sheriff Clerk Depute who is auditor?—I do not know whether it is generally the one or the other. In some places it is the one and in other places it is the other. For instance, in all my three Courts, excluding Edinburgh, the Sheriff Clerk is auditor; that is, in Peebles, Haddington, and Linlithgow. It is the Sheriff Clerk himself who acts as auditor in these places.

58,376. It may be either the one or the other?—Yes. Then Mr. Watt also said that they should no longer be allowed to take remits from the Sheriff, or that if they did and were paid fees for the way they did their duty as Commissioners, that they should be bound to pay those fees to the Treasury. I entirely demur from that suggestion, too, because I know personally that it is a very great comfort to the Sheriff to have a man who is accustomed to taking evidence, or hearing evidence taken rather, and to remit to him to act as Commissioner to examine witnesses who cannot come to the Court for any reason; and just in the same way for the recovery of documents it is a very great thing that the clerk to the process, who knows the process, should be the man who is responsible for the right document being taken. Then as regards his paying the fees, these remits never interfere with his public duties: they are taken out of Court hours if he has not sufficient spare time, and personally I cannot see why he should not get paid for work of that kind, which is taken simply as a matter of convenience to the Sheriff.

58,377. (*Mr. Graham Wallas.*) I think the Procurator Fiscal at present in some cases acts for and advises local bodies. He is allowed in some cases, I think, to act as adviser to local bodies?—In that case he is acting as clerk, and not as adviser.

58,378. Would you approve of a plan which would make it usual for a Procurator Fiscal with a larger salary to do such work as part of his official duties, charging a fee for such work?—He does not advise them in these cases. I think what you mean is that he conducts prosecutions for them. That is a different thing, of course. I think if he was given a sufficient salary that it would be a very good thing that all prosecutions carried out by local bodies or by the Crown should be done by one man, and that his salary should cover that.

58,379. (*Sir George Paul.*) You have said that you do not think it essential that the Sheriff Clerk should be a highly qualified man?—That is so.

58,380. And in fact I think your own Sheriff Clerk was promoted from the position of depute. I think there was also a Mr. Sellar of Glasgow; he was not qualified?—That is so.

58,381. So you would promote your best depute if you thought him quite qualified for the position, irrespective altogether of his legal qualifications?—Yes.

58,382. But if you have to go outside you would naturally select the man with a legal training, would you not?—Yes. I may just point out that the Report of Lord Salvesen's Committee recommends that Sheriff Clerks Depute who have served at least five years as such, or have served at least 10 years in the Sheriff Clerk's office, during two years of which period they shall have served as depute, shall be eligible for promotion to the office of Sheriff Clerk.

58,383. The present deputies' positions are precarious, are they not? They are elected by the Sheriff Clerk?—Yes.

58,384. And are dismissible at present by him, probably after consultation with the Sheriff?—Yes.

58,385. There is no fixity of tenure at present?—No; that is one of their grievances.

58,386. And the other grievance is that they have only enough to keep them going during their professional existence and nothing to fall back upon?—Yes.

58,387. That is a matter that would require consideration?—That is so. Personally, I think they are not properly paid.

58,388. As regards their appointment, if they had fixity of tenure and a pension, would it not be sufficient for all practical purposes that the Sheriff, after consultation with the Sheriff Clerk, should make these appointments?—Personally, I think it might be but I do not think the Treasury would agree to that. We were told that if these people were to have pensions—the special class—the Treasury or the Government would have to have a say in the appointment.

58,389. But as a matter of common sense you think the Sheriff might make the appointment?—Personally, I think that probably the Sheriff would be the best man.

58,390. You were speaking about promotion, and you said that it would not do to promote a qualified depute to a small country place. Of course, you cannot compel him to go, can you? If he did not think it was to his interest to go, he would not go?—No, but if you are to have promotion from the bottom to the top, as Mr. Watt says, it must mean promotion in money, and it would be promotion to a man to go to a small place if he had a bigger salary.

58,391. But you would not prevent him going to a bigger salary, would you?—No, but that is the difficulty, I think, in making it into one service—that if you are going to promote a small man to a higher place, that means that you are taking a man without the official experience necessary for the higher place, and if you are going to promote a man from a deputation to a principalship in a similar place, you are losing all the experience which he has got and you are not making the best of him.

58,392. The only inducement to him would be more pay?—Yes, but I am looking at it from the public point of view.

58,393. (*Mr. Boutwood.*) I gather that you do not think legal qualifications requisite for the Sheriff Clerks. You think they can do their work as they do it just now. I do not wish to suggest any objection to that, but then you go on to say that that makes a difficulty in promotion: that a man who has learned the work in a remote country district would not be suitable for the work in Edinburgh or Glasgow. Well now, how far would that difficulty be overcome if you did, in fact, require general legal qualifications: I mean, supposing you had a man in a remote country district—of course, he will learn there a rather narrow circle of work—but suppose he had in addition to that experience a legal qualification, would that facilitate promotion to Edinburgh or Glasgow, or would you still think that it would be a difficult thing to do?—I do not think that legal knowledge is necessary. What he requires is official experience, and that he cannot get by passing the Law Agents examination. He requires to qualify as a clerk in a highly specialised office.

58,394. So the difficulty would remain in any case?—I think so.

58,395. (*Mr. Clynes.*) With regard to that point about private practice, I understood you to say that formerly it was permitted?—Yes.

58,396. Was it discontinued because of any serious interference with the man's work?—No, I think not. Of course, I was not in the official secrets of the thing, but I do not think that was suggested. I do not think it had anything to do with its being discontinued.

58,397. Then you express the opinion that the head clerks and officials should not be removed from office by the Sheriff Clerks except with the approval of some higher power. What power have you in mind?—That is the deputies and possibly some of the head clerks. The power that I consider the best would be the Sheriff,

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but it might be that the person who appoints would be the right one, and if there is a special class of depute that would be the Lord Advocate.

58,398. The person who appoints is the Secretary for Scotland?—Yes, or the Lord Advocate in the case of Fiscals.

58,399. (*Sir John Kempe.*) If the proposal for enlarging the Sheriff Court districts were adopted, the service would be made more attractive to outside persons. You would attract better men?—I think so.

58,400. In that case would your objection to open competition be at all modified or set aside. I think you said that under existing circumstances you thought competition would narrow the field further?—What are they to compete in? In the first place they must go to be examined somewhere, and that is a great difficulty with the poor young man who comes into the office. Those young men, if they are kept in their own district, can live at home, and so a small salary goes further. Personally, I do not know what it is proposed that they should be examined in. If it is in law, it is of no use; and, of course, they cannot be examined in procedure, because a knowledge of procedure can only be gained by experience; and in the case of a competition for a small clerkship at a place such as Tain, say, there would be nobody to compete. Even at present they have to search everywhere to get a boy to come in at all, and if he had to pass an examination before getting in he would have no competitors, and he would not do it probably.

58,401. Of course, your difficulty as to the locality might be overcome by some machinery, as it is very much overcome just now by the existing Civil Service machinery. The proposal would much enlarge the districts?—Yes, but at a small place he would have to go into the office anyhow, because the court would be there. It would only be under a different head; that is all.

58,402. But even now boys do not always find employment in the place where their parents live?—I think in those country Sheriff Courts you will find that they are altogether recruited from the local supply. I only mean that really I think that this suggestion of the Departmental Committee would make it a more attractive thing from bottom to top, and that there

could be more money spent upon it; and that being so, you will get a better class of men, not necessarily or at all by competition or examination. The Sheriff Clerk would still be responsible for the lower men, and it is for him to find the best man or boy he can get to come in, and if he can keep him, well and good. It is not so much in regard to the entry, but in regard to the keeping of them, that this system would improve the services I think.

58,403. (*Mr. Boutwood.*) What salaries do they get?—Very small salaries. I am afraid I cannot speak definitely as to that.

58,404. (*Miss Haldane.*) In regard to what you said about political appointments, I suppose there is a good deal of political canvassing? Is that your experience for these appointments?—I have never been in a position to be canvassed.

58,405. No, but from what you hear?—I have never heard of it.

58,406. I wanted to know whether you thought it existed to a large extent or not?—I really do not know.

58,407. (*Chairman.*) The Report of the Departmental Committee did not make any recommendation as regards pension rights and age limit for the Sheriff Clerks or the special class of deutes. Do you consider that pension rights should be given to those officials?—I think so. Certainly, if they are public officers, I think it is quite wrong that the country should allow them to go out into the world with nothing when they really have not been in a position to save from their small salary.

58,408. And if they are given pension rights, would you also fix an age for retirement?—Yes.

58,409. Would you apply the usual Civil Service rule?—I really do not know about the Civil Service. That goes with the annual increment, does it not?

58,410. The rule for retirement in the Civil Service is that a man may retire at the age of 60 years, and that he must retire at the age of 65; but there is power to make special extensions in exceptional cases up to the age of 70 years?—I certainly would not make it compulsory to retire before 70, because the experience between the ages of 60 and 70 is, I think, an important one. The longer the man is there, the more useful he is to the Sheriff and to the country.

The Right Hon. the LORD DUNEDIN, K.C.V.O., K.C., called and examined.

58,411. (*Chairman.*) My Lord, I think you have had experience of the legal departments from almost every possible point of view?—Might I just give you a brief account of my experience. I passed advocate in 1874, and my official life began in 1888. I was then made Senior Advocate Depute. That was a novelty—beginning life as Senior Advocate Depute. It was done by Lord Advocate Robertson, and the reason of it was this: In the old days the Solicitor-General, as a rule, was not in Parliament, and therefore he was down here to supervise the deutes, and really see that the Crown work went on while the Lord Advocate was in London; but, as you are probably aware, political affairs began to get strenuous about that time, and attendance was very much enforced by the Whips, and the result of it was that the Solicitor-General was always in London just as much as the Lord Advocate, and Lord Advocate Robertson thought that it was expedient to have as Senior Advocate Depute—the home depute—somebody with such a position in practice that he was a person of some authority and experience. So I began in 1888 as Senior Advocate Depute. I was that for two years, and then in 1890 I was made Sheriff of Perth, and I had the sheriffdom of Perth for one year, and then I was made Solicitor-General. The office of Solicitor-General at that time carried with it *ex officio* a seat on the Board of Supervision, which, of course, was the progenitor of the Local Government Board. Then, in 1892, there was a change of Government. In 1895 there was another change, and I again became Solicitor-General. Early in 1896 I became Lord Advocate, and I stayed as Lord Advocate until the autumn of 1903, and then I became Secretary for Scotland till the spring of 1905, when I became Lord President of the Court of

Session, and there I stayed until two years ago, when I took my present position.

58,412. We should be glad, in the first instance, to know your views on the system of appointment and promotion at present in force in the central legal offices—in the offices attached to the Court of Session and the Register House?—I think you must take all those things separately. In one sense the Register House is attached to the Court of Session, and in another sense it is not. I will say more about that later on. Taking what I may call the Court of Session proper, I would define that as being the Clerkships of Court, including, of course, the Bill Chamber and including the Extractor's Office. There is also a sort of side establishment—I cannot call it anything else—of the Accountant of Court.

58,413. There is also the Keeper of the Minute Book?—Yes; I include that with the Clerks of Court. Of course, I must not leave out the Teind Office and the Justiciary Office. Now, as a matter of fact, before my time, taking the Court of Session proper and confining myself for the moment to the Clerks of Court alone, there was no system of promotion: that is to say, whenever a vacancy occurred in one of the principal clerkships almost invariably, without almost any exception, an outside man was put in in the first place. There was a tradition which had really almost the force of a statute, that the Lord Advocate's clerk had a right to the appointment if a depute clerkship fell vacant. Of course, I am not speaking of the two senior clerks—the senior clerk in the first division and the senior clerk in the second division. I did not think that was fair, and I altered it practically. Of course, I could not alter it by rule, because I had no power to

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lay down rules on such a matter, but I altered it in practice during my long tenure, for I was seven and a half years there. It was made easy for me to do it at the moment, for this reason: you see, the Lord Advocate, as a rule, has a clerk who bears the burden and heat of the day with him in his professional life, and he generally regards him as a person is in the habit of regarding his or her old nurse. My clerk had died just before I became Lord Advocate, so that I had only a man who had served me only a year or two. On that account, of course, he had not the same claims. I told him that I was sorry, but if the office fell vacant I would not give him it. What I did was this: I put him in at the bottom of the assistant clerkships, and I kept that up during the whole of my time. Nobody came in straightaway to the high office, but they just moved up.

58,414. That has not been kept up since then, I think?—I cannot say. Of course, I have not had to do with it lately. In the Bill Chamber, for instance, Lord Dundas will remember that the Bill Chamber Clerk of our youth was Mr. Shaw, and then Mr. Antonio was promoted. I think that was right; but when you come to do more than what I have indicated you get into this difficulty. There is no question that these various departments—some of them are what you may call very severely specialised; others are specialised, but not so severely. To explain what I mean I would say, take, for instance, the most severely specialised department, namely, the Teinds. It would really be absurd to suppose that you could by promotion make a man Teind Clerk from another office. I notice in this report of Mr. Watt what he there says about the Teind Office, that you might reorganise it, and he says: "The Teind Clerk as a separate statutory office should be done away with, and an expert clerk should attend on the Lord Ordinary to write the interlocutors. It would be remitted to him to 'prepare the localities,' &c., and do the other work at present done in the Teind Office. The actual bulk of the Teind work is not great, and on that account it might be advisable to give the Teind Clerk less salary than a Depute Clerk. He would, however, be in a position to look for promotion to a Depute Clerkship and even higher than that; if this became the rule there would usually be on the staff a number of men with experience of Teind work." When a man says that the only thing one can say is that he has not the remotest conception of what he is speaking about. The real truth is that a locality of Teinds is a complete anachronism: they ought to be done away with, but in quite another way—that of valuing the whole Teinds and getting them into the position of a burden. As long as that is not done it is a most intricate affair framing a locality of Teinds.

58,415. How will the next Teind Clerk be brought up?—The present Teind Clerk has had a man in the office a long time under him.

58,416. You suggest that it is necessary to train a man in the office?—Yes, for several years. Of course, in one sense anybody can learn anything, but if you put in an incompetent man in the sense of knowing nothing about it, the only result would be litigation. An incompetent man would make such a perfect mess of the locality that you would drive all the heritors to litigation, and there would be a great deal of money spent for nothing at all. That, of course, is an extreme instance—the Teinds Office. Now, with regard to the Bill Chamber, it is very technical work. A man who had served in the under offices in the Bill Chamber, could quite well be made a Depute Clerk of Session, but I am not at all prepared to say that you could take one of the assistant Clerks of Session and make him a competent Bill Chamber clerk. Personally, I do not think you could. The Bill Chamber, again, requires special training, and, as a matter of fact, so far as my experience goes—and it goes back something like 40 years—the Bill Chamber appointments always have been in the Bill Chamber. I mean the men appointed have always been specially trained men.

58,417. The present Clerk of the Bill Chamber was appointed from outside, I understand?—If you went to

a solicitor's office and got a Parliament House clerk with a lot of experience, I imagine that that man might do it well, because he has had in his time so much Bill Chamber work. I only mean that the Bill Chamber is a separate job from the other. Of course, you would always find individual people who could do it, but what I say is that if you had a system of promotion from the bottom to the top it would not fit very well with the Bill Chamber. All I mean is this, that if you extended what I did, in the case of the clerks of Court, you would not have to do it by cast iron rules. You would have to have somebody who knew sufficient about the men not to take a wrong man for the place. Now, the next office that is rather like that is the Extractor's Office. That also is a matter that requires considerable training. I do not think it is at all like the Teinds: it is not technical in that sense, although one would not make much of an extract trying it for the first time; but I think any really competent man could learn the work of the Extractor's Office.

58,418. I suppose a man employed in one of the subordinate offices in one of the branches of the Court would have some knowledge of what the work is?—I think a good assistant clerk might quite well turn into a good extractor. Really, of course, what the extractor does is this: he remodels the interlocutors, and you have to do that with a good deal of sense. He takes the conclusions of the summonses, and then he takes the interlocutor and he has to produce something out of the two, and that something varies very much. It may be, for instance, that a judge's interlocutor really practically gives you all that you want in the extract. It may be that he just "decerns as craved," and then you have to construct the decree out of the conclusions of the summonses as authorised by this "decerns as craved."

58,419. You mean that the Extractor has to state the matter in a complete form and not by reference to other documents?—Yes. Of course, a blundered extract is a thing that gives a great deal of trouble. Then, the Justiciary I look upon as completely different. The work of a Justiciary Clerk is perfectly different, and the work of the Crown Office Clerk is different again. After all, you see, what the Clerks of Court have got to do is to see that the processes are in proper order, to have continual colloquies with the agents in the case, and to help them, and to keep everything in order and see that the judge does not make any slips. But when you come to the Crown Office work, for instance, the Crown Office work consists of a perfectly different class of work, that deals with cases got up by Procurators Fiscal. He has to see, for instance, if the case has been properly got up, and in going over the documents he may discover that such and such a thing has not been proved by certain witnesses. It is a perfectly different class of work. In one sense I am a great believer in any man who is competent being able to learn any work so far as experience is concerned, but experience in the Crown Office would be little good for the Court of Session, and, on the other hand, experience in the Court of Session would be little good for the Crown Office.

58,420. You would keep these two separate?—Yes. I am all in favour of promotion. Of course, it was easier for me during my time, because I had such a long reign, but I promoted in the case of Sheriff Substitutes without any reference to politics whatever.

58,421. Assuming that it is desirable to introduce a system of promotion without reference to politics, can you suggest any means by which that could be made the recognised system?—Of course, during all my time the ordinary appointments were all political, there is no question about that. Take, for instance, the Clerks of Court: I made a great many of these appointments and they were all political in the sense that they were chosen from the ranks of the party to which I belonged. But I can absolutely lay my hand on my heart and say that I never appointed a man who was unfit for the job. Theoretically, of course, one would not say that there was much in favour of a system that worked in that way, but practically I rather think you will find in the long run, so long as you do not appoint a man who is unfit for the job, that it will work just as well as anything else. Of course, a great deal depends on the

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point of view from which you approach this question. It is one thing to sit as a sort of Abbé Siéyes; but if you are simply asking yourself, "Have the appointments been practically good?" I do not think there is much fault to find with the appointments. Of course, you are not likely to have very many of these appointments, and you are pretty sure during the duration of office of one party to have quite enough good men on your own side to select from. I ought to say, of course, that Clerks of Court were people who were of the law agent class—I mean people who had some experience of law work as a rule, and one had easily ways and means of finding out about them. I want to say that when it came to the question of Sheriff Clerks—and I also appointed a great many of them during my time—I never appointed any Sheriff Clerk without the thorough approbation of the Sheriff; I mean I took the one or two names that had been recommended to me to the Sheriff and got his opinion on them. There, of course, I had not the personal knowledge before appointing a man as I had in Edinburgh. I always went to the Sheriff and said, "Is AB a competent man for the position?"

58,422. The system of political appointment carries with it almost necessarily the putting in of men from outside to the higher posts of the Service, and we have been told that that is very discouraging to the men in the lower grades of the Service?—Personally, as I say, I did away with that in the Court of Session proper during my time.

58,423. Turning, now, to the local services—the Sheriff Courts and the Procurators Fiscal—have you any suggestions to make with regard to them?—You see, they must be taken quite separately. The difficulty about the Sheriff Court business is this, and you cannot get over it: the old plan was that the Sheriff Clerk was a Crown appointment, but none of the others were. The Sheriff Clerk got so much money from the Treasury. There were differences sometimes; he used to get a lump sum and had to find his own assistants. In other cases he got his money divided up, and he was bound by the Treasury minute to spend so much money on such and such appointments, but in all the cases he was always responsible for his own people. Of course, long ago, there was a great agitation among the Sheriff Clerks Depute to get put upon another footing. They wanted to become public servants, naturally enough, and they wanted a pension, and there was also a good deal of feeling about the loss of prestige. They did not like the idea of being able to be dismissed by the man who was above them. In my day the practical stopper to that was the Treasury, because the Treasury saw that it meant a large increase of expense, and the Treasury put down its foot absolutely and would never hear of it. Well, as long as you leave the matter in that position—I mean to say, as long as you leave the payment to be done through the Sheriff Clerk out of his salary, so to speak—I do not see how you can possibly alter the system. If you alter the system then you must make them appointments for which he is not responsible, and you must, make them in some way or other; either as at present by the Lord Advocate or by some central authority. Personally, I think the person who ought to be consulted about these matters is the Sheriff, because it is really for his convenience and that of nobody else. The Sheriff is generally a public-spirited person and he wants the work of his Court well done, and he wants a competent man rather than an incompetent man, and when I had the making of appointments I always did it with the approval of the Sheriff. And I know from my experience that in some cases there has been friction for many years connected with subordinate officers whom the Sheriff did not like and whom the Sheriff Clerk did not want to get rid of, although I think on the whole the Sheriff Clerks really behave perfectly fairly in that way. Personally I do not think that theoretically the system is a very good one. On the other hand, I cannot say that in practice it has worked very badly.

58,424. With regard to Procurators Fiscal, have you anything to say?—When you come to the Procurators Fiscal there was a difference made. In the old days the Procurator Fiscal was appointed by

the Sheriff. By one of the comparatively modern Acts—I forget the exact date of it at this moment—the appointment was made a Crown appointment, and at the same time, of course, the thing was influenced by the House of Commons view of whole-time service, and I had a good deal of trouble about that during my time, especially in the earlier days, with the House of Commons pulling one way and the Treasury pulling the other way—the Treasury not wanting to give away money and the House of Commons not wanting to allow private practice. Where you had a good man to whom you could afford a good salary, there was no difficulty there; but in other cases there was a difficulty. In the cases where we could give a good salary, we took to putting into the commissions that Procurators Fiscal should not be allowed to engage in private practice.

58,425. Does that apply to far the larger number of Procurators Fiscal just now?—I would not like to say that. Of course, I have not had this in the least before me lately. I am not at all sure, however, that if you took them all over you would not find a great number that it would not apply to. I think you would find many more that it would not apply to than you would expect. Of course, in a small place, the Treasury does not give the man a proper salary, and unless you allowed him private practice he could not live.

58,426. What was the reason for the pressure you mention in favour of the restriction and against allowing private practice?—Merely the feeling of the House of Commons. I do not think it was based on any real experience. It became a cry, and there was the usual agitation.

58,427. The last witness we had before us suggested that it was owing to the jealousy of rival practitioners, who did not want Procurators Fiscal to interfere with private practice?—I suppose that may have had something to do with it.

58,428. Do you yourself see any objection to allowing private practice?—I do not think myself that in practice it does any harm. At the same time, I would not go back on what has been done. Where as far as possible you have a district which warrants a salary on which a man can live, I agree that he should not be allowed to have private practice, but at the same time private practice is no bogey—I do not think that in itself it is a thing to be condemned.

58,429. You do not consider that there would be any conflict between the Procurator Fiscal's duty to his client and his duty to the public?—No, I do not think so in practice.

58,430. The political system of selection applied also to the appointment of Procurators Fiscal, I suppose: that is to say, a man was selected who was competent, but who had also rendered services to a political party?—Yes. The Act was only just passed before my time, and I do not quite remember the dates there.

58,431. You mentioned, I think, that you had applied the system of promotion and transfer, irrespective of political considerations?—Yes, in the case of Sheriff Substitutes.

58,432. Was that not applied in the case of Procurators Fiscal?—No, because you cannot do that so easily. The Sheriff Substitute is an advocate, and he does not belong to the place he is sent to. He comes from Edinburgh, and he is sent, say, to Wick. He is only too glad to come from a place like Wick and go to Ayr, for instance. With regard to the Procurator Fiscal, he is generally a local man; he has got his interests centred in the place, and he would not move very easily.

58,433. Not even to get promotion and a higher salary?—Of course, it is not a thing on which you can dogmatise, but I think you should really keep in view that question of moving about.

58,434. In the case of postmasters, for instance, men are transferred from one end of the country to the other?—Yes, in the case of large people, but in the case of small people it is different. Custom House officers, for instance, have a migratory time, and they do not like it. There is another remark I should like to make about local things which I think is often forgotten. When you talk about experience, which comes in with both Sheriff Clerks and Procurators Fiscal, so

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many people seem to think that experience merely consists in writing a certain number of interlocutors or taking a certain number of precognitions. As a matter of fact, far and away the most valuable part of experience is the experience of people. In every case you have the practitioners in that Court who have to be looked after. There are people whom you can trust with a paper, and there are people whom you cannot trust with a paper: and the man who knows the ropes in the Sheriff Court is very much more valuable than a person who knows nothing about it; because, remember, all these appointments I have been speaking about under the political system were all made from local people.

58,435. Does that apply to the Sheriff Clerks?—Yes, he was always an agent who practised in that Court. I never knew of any other being appointed.

58,436. Do you consider that the present system of appointment is the right one as regards the appointing authority, or do you suggest any change?—There again, theoretically, I do not know that it is; but, at the same time, I do not think you can get any better. As a rule, I think the Lord Advocates have not disgraced themselves by "real jobs"—I mean by putting in men who ought not to be there. Take the case of the Lord President of the Court of Session, who has been suggested. I have been Lord President of the Court of Session, and there is nothing I would have regretted so much as to have had to make appointments of this kind. A judge, I think, should keep out of politics and all matters outside his own office, and should not lay himself open to the charge of favouring one person more than another. Anybody who has been in that position knows the extraordinary amount of side influences that are sought to be brought to bear upon you. Of course, if you have had a good long time of it, it does not hurt you, but you receive crowds of letters and there are crowds of people who want to speak to you, and I think that is all very unfit work for the Lord President of the Court of Session. Secondly, the Lord President does not really know the people. The Lord President of the Court of Session, after he has been there a little time, gets quite naturally isolated from the people. I know that at the end of my President's time I did not know the men by head mark in the way I did when I was Lord Advocate. When I was Lord Advocate I knew all the principal agents in Scotland, and I had my own notions about them—I really knew everybody. But when I was President of the Court of Session younger men had come forward whom I knew nothing about, and there you are not at all in a position to get reports in the way that you are when you are Lord Advocate. Then, again, the Lord Advocate is subjected to a certain fire of possible criticism which may really break out in the House of Commons. On the other hand, I think it is out of the question to subject the President of the Court of Session to criticism of that sort. The Lord Advocate can speak back and make the best of it, but the President of the Court of Session cannot do that; and criticism which is not answered is by the ordinary gentleman in the street generally supposed to be true, which is rather a pity; but, still, there it is. That, I think, is a thoroughly bad suggestion. The next suggestion, I understand, is an advisory committee. An advisory committee, I think, would be useless. It would not help you; it would only rather get in your way. If you had had an advisory committee at the time I was Lord Advocate you could not have got people who knew the personnel of the people as well as I did myself, and I think the people on that committee would be just as much assailed as the Lord Advocate is himself. If you are connected in the most distant way, if you are supposed to be a friend of somebody who has got the appointment, don't you receive two or three letters on the subject? I think the result would be that the advisory committee would be just as much fired at as the Lord Advocate could be; and really, you know, if I may say so—of course, I am supposing that the advisory committee would be composed of men of character and everything else—but there is less sense of responsibility in the case of the members of a committee than in the case of a man who knows that the

appointment is off his own bat, and knows that he is responsible for it all. Personally I look on an advisory committee as a mere *ignis fatuus* and nothing else. After all, somebody must appoint, and what you want is that the best you can do shall be done. Honestly, I think the Lord Advocate is as good a person to appoint as anyone else, because he is in a position, I think, to know the personnel of what, after all, is a small class in Scotland, better than anybody else.

58,437. Does not the technical responsibility belong to the Secretary for Scotland?—No; the rule on that is absolutely certain. Of course, I have known the traditions for a very long time. The Lord Advocate has the absolute power of nomination, and the Secretary for Scotland cannot refuse it, in connection with all the minor legal offices. It is only when you come to the judges of the Court of Session that the Lord Advocate has no power to nominate; and if such a thing had happened in my time as the Secretary for Scotland saying in the case of a minor legal office, "I will not take So-and-so," and he simply wanted a friend of his appointed, in such a case I would have appealed to the Prime Minister; if I had appealed, I should have succeeded. There are two appointments, the President and the Lord Justice Clerk, which are under the nomination not of the Secretary for Scotland but of the Prime Minister.

58,438. We have had cases pointed out in which, by statute, the appointment is made on the advice of the Secretary for Scotland, but where, in practice, it is on the nomination of the Lord Advocate?—Those must be very few and far between.

58,439. Take, for instance, the case of the posts under the Deputy Clerk Registrar: by statute the power of appointment used to be vested in the Treasury, but is now vested in the Secretary for Scotland; I mean the posts in the Register House?—Yes, but I am not calling the posts in the Register House in the proper sense legal appointments.

58,440. In making appointments to these posts, does not the Secretary for Scotland act on the advice of the Lord Advocate?—Oh, no. For instance, in the case of the appointment of the Keeper of the Sasines—there one would expect to be consulted. The point I was dealing with, however, was not appointments in connection with the Register House. The Register House is in a very peculiar position. In one sense it is part of the Court of Session, and in the other sense it is not. Ministerially speaking, for executive work, it is not under the Court of Session. It is under the Court of Session in this sense, that part of its duties are keeping books of Council and Session. In fact you will find a notice of that in rather a quaint way. The form an extract bears is, "Which day appeared George Munro, procurator for so and so, desiring that the present deed should be recorded, which desire the Lords found reasonable and ordered to be recorded," and so on. In the same way the Court of Session no doubt could give an order if it wanted to see any of the Sasines. I cannot imagine any reason why it would want to see a Sasine, but when it does want to see a deed, you have to get a Court of Session order to take it out of the Register House and bring it up to be looked at. The instrument of Sasine in the old days was not kept in the Register House; it was copied, and consequently there was nothing to be gained by seeing a copy, which of course is not as good as the real instrument itself. Except in those two ways I have mentioned, the Court of Session has really nothing to do with the Register House.

58,441. To clear up the question of the exact legal position, we were told, for instance, by Sir James Dodds that the Deputy Keeper of the Records, the Keeper of the Deeds, and the Curator of the Historical Department are appointed by the Secretary for Scotland?—I believe so.

58,442. In those cases the Lord Advocate is not consulted?—I hope he would be consulted, but he has no power of nomination. The real test is this: we are talking of Crown appointments.

58,443. We were told that the Sheriff Clerks were appointed by the Secretary for Scotland on the substantial patronage of the Lord Advocate?—That is

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mildly put. It is more than a substantial patronage. The Lord Advocate has the right to nominate.

58,444. Is that a matter of practice or is it in accordance with a statute?—It is a matter of practice. But I am speaking of a practice which I know long before Mr. Dodds was born. Sheriff Substitutes, even when I was at the Bar, were appointed by the Sheriff.

58,445. If a Crown appointment made in that way was questioned in the House of Commons, would it fall to the Secretary for Scotland or to the Lord Advocate to defend it?—In the case of a Sheriff Substitute or a Sheriff Clerk it would fall to the Lord Advocate to defend it, because it would be he that was really responsible. Of course, if the Secretary for Scotland chose to get up and say, "I quite accept the responsibility that has been put upon me" that would be all right.

58,446. Does that apply to all direct Crown appointments?—Well, it applies to all the minor legal appointments. Nobody who is not a Cabinet Minister has a right of access to the Sovereign to send in a recommendation; therefore, nothing could go from the Lord Advocate in the old days, because the Lord Advocate had not the right to present his humble duty to His or Her Majesty and recommend so and so. It went into the Home Office, but all these minor things were always done upon the nomination of the Lord Advocate, and it was held by custom and not by statute that the Home Secretary could not refuse the Lord Advocate's nomination. Of course, those appointments I refer to are the strictly legal appointments. I do not count the people who have been referred to in the Register House as coming under that category.

58,447. Another suggestion that has been made is that with regard to some of the appointments in question open competition might be applied?—It is perfectly ridiculous.

58,448. That would apply to the junior appointments?—Yes. I personally am a thorough disbeliever in competitive examination. What are the qualities you want to succeed in a competitive examination? First of all you must be able to cram, and, secondly, you want to have a sufficient amount of sang-froid and the capacity to put things down quickly on paper, to cram into your examination within two hours the sum total of all the knowledge that you think you have got. Well, these are not qualities that you find of great value. No doubt it is a very great thing to be able to cram in our profession afterwards, but that is not the case with the clerks.

58,449. Is not it a great part of a lawyer's work?—Yes, but it is not at all the whole duty of man, and there are a great many other qualities that are wanted even among clerks that you do not get with these two things. I think you would get in probably some of the most unsuitable people.

58,450. Have you had any opportunity of judging of its results as applied to the Register House?—No. I obviously have had no personal experience of the actual clerkships in the Register House, but I should be very much surprised, if you took somebody who had been in the Register House a long time and asked his idea about the various clerks that had come there, to hear that those who had passed the best examination were always top. I do not think you can have any better illustration of that than in real life from the experience as to senior wranglers. To be a senior wrangler does not incapacitate a man from practical success, but it does not ensure it.

58,451. We have been told by witnesses from the Register House that the staff recruited by that method is satisfactory, and that the work is thoroughly well done?—I have always looked upon competitive examination as a counsel of despair. It would be perfectly impossible, of course, to have a system of personal selection for the whole Civil Service of this country. In so far as the competitive examination is a qualifying examination, I have no objection to it. It is probably a good thing. In so far as you get one man above another by competition, I have very much doubt as to whether it leads to much. You will remember the wonderful things that were going to be done in India with public servants, still they are not a

bit better than they used to be in the days of John Company. I think the whole thing really depends on this—the services we are talking about here are very small and allow of personal knowledge.

58,452. The question has been raised whether, in the case of the legal offices, qualification as a law agent should be required as a condition of appointment?—Well, I am not averse to that at all, because qualification as a law agent means a certain amount of general culture, which is all to the good and means a certain amount of knowledge of a subject with which the work is, to say the least, akin. Of course it is quite true that the Clerk of Court has not to decide a case, but he would be none the worse of a little law. I am not talking of the junior clerks. The outsiders who have been brought in have nearly always had legal qualifications. They were usually members of the Law Agents Society, and very often S.S.Cs.

58,453. Would that apply to Lord Advocates' clerks?—That is the only person that it would probably be hard on if you applied it all at once, but I think the result in the future would be that the person who wanted to become a Lord Advocate's clerk would pass as a law agent.

58,454. It requires a certain period of apprenticeship?—Yes.

58,455. And that apprenticeship is usually begun at the age of 15?—Yes.

58,456. That is to say, his general education, before he enters a solicitor's office, has been cut short at an early point?—Yes.

58,457. Does not it mean that he has got a certain legal experience, but at the expense of general education?—I am afraid you touch really a much bigger question. Any poor fellow whom you have to tell at about 15 years of age that he must begin to earn his bread suffers as regards his general education.

58,458. (*Sir Donald MacAlister.*) But is a law agent's training not also a liberal educational training, as far as it goes?—Yes.

58,459. (*Chairman.*) Taking the system as a whole, you would be inclined to leave matters very much as they are?—Yes, except that I would try and make it really compulsory on the Lord Advocates in general to do what I did.

58,460. How are you going to make it compulsory?—Of course I have not actually thought that matter out.

58,461. I was once told by a competent authority that an expression of opinion by a Minister had no effect on his successor, except to irritate him. Can you suggest any way in which it would have a more binding effect?—I think you know, as far as the Court of Session proper is concerned, there would be no practical difficulty in saying that you should not appoint a depute clerk except from the ranks of the assistant clerks.

58,462. (*Lord Dundas.*) Do you confine your observation to the depute clerks?—I did it as far as I could in the whole of the office. I did it in this way too—you know there are what you call assistant clerks in the Inner House who are mere clerks. They have no real position at all. I brought them on if I could.

58,463. (*Sir Donald MacAlister.*) Could such a thing be secured by an Act of Sederunt?—No, I don't think an Act of Sederunt would touch it at present, because no Act of Sederunt would touch the Lord Advocate.

58,464. (*Chairman.*) Would it require legislation?—Yes.

58,465. Would the same observation apply as regards any extension of the system of promotion by transfer in the Sheriff Clerks' offices?—I think that again must be taken quite separately. There again perhaps I might at this juncture point out a thing which comes in naturally, viz., the question of supervision. You see, the position of the Sheriff Clerks and the Clerks of Court here is quite different, in this way: the Court is a fairly large establishment—I mean to say it has 13 judges and it has got 7 separate courts, 5 outer and 2 divisions, each of them having their clerks. Well, their supervision is quite a possible and a right thing—I mean the supervision which is now

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exercised by the Principal Clerk of Session, different in that matter by the recent Act from the old dual control. I was entirely in favour of what they have done. The Clerk of Session has got to go round and see that the men are really doing their work, that they are not behaving badly to agents, and so on; but when you go to the Sheriff Court you have a much smaller court—I am leaving out for the moment Edinburgh, Glasgow, and Dundee, and I take the smaller courts in the country—and while there is the Sheriff Clerk and his assistant, there is nobody else, and they are all in close touch with each other, and there is not the slightest difficulty in the Sheriff himself supervising, so to speak, his own staff. That is to say, it is his business to see that the Sheriff Clerk does his duty, and it is the Sheriff Clerk's business to see that his subordinates do their duty; it is in his interests, because if they do not do their duty there will be all the more for him to do. Therefore the scheme which I heard talked about—a sort of perambulating inspector of the Sheriff Court—is a perfect chimera. The man would not know what to do when he got there; he would begin to cross-examine, “When do you come here in the morning?” and, “When do you go away at night?” It is simply nonsense.

58,466. You think the supervision should remain with the Sheriff?—Yes; and it would be a great pity if the Sheriff could not be master in his own house. The Court of Session is perfectly different.

58,467. If the recommendation of Lord Salvesen's Committee in favour of reducing the number of Sheriff Clerks so that there should be one in each sheriffdom is carried out, then I presume that the Sheriff Clerk would become the Sheriff's natural organ for regulating the courts other than his own?—Certainly. You said, “in each sheriffdom.” You mean courts other than the Sheriff Clerk's own?

58,468. Yes?—Certainly.

58,469. Are you in favour of that recommendation of Lord Salvesen's Committee?—Yes. I have always been in favour of making the districts as wide as you can. It is all a question of the circumstances, and it must vary according to the conditions and population of the country. I mean to say, it is very much affected by the question of transit facilities, which vary from time to time. In the old days it was necessary to have far more when there were fewer railways and motor cars.

58,470. Returning to the Court of Session, we have had evidence that the present system under which the offices are placed at the Register House is very inconvenient, and that it would be a very great improvement, and would facilitate the organisation of the offices for the convenience of the Court and the public, if the offices were at Parliament House?—That, I think, would be true. I mean to say, you would not have a procession of blue bags on a lorry which you have twice a day just now. I think it would be much better if they were nearer, and it would save a good deal of time, and would actually give clerks more time to be in court. Just one other word about supervision. I think I have seen the idea that the supervision of the Chief Clerk of Court should be extended. I do not think he would do any good out of his own place. That is to say, it is quite right that he should supervise the clerks of the Court of Session and the Bill Chamber and the Extractor's Office; but it would not be the slightest use, and would be, I think, a pity to send Mr. Adam down to, say, the Register House, or even to the Accountant of Court, which, I think, is a separate office, which the Accountant of Court is perfectly able himself to regulate. The idea must be that each man must be master in his own house; and in the Register House, for instance, the Sasine Office and the Deeds Office are on a different footing, but still the Deputy Clerk Register is the head of that establishment, and therefore I think, for what you call ordinary administrative justice among the clerks, he must be responsible.

58,471. Different opinions have been expressed to us as regards the Register House, as to how far the separate heads of departments there should be independent of or dependent upon the Deputy Clerk Register. That question arises particularly with regard to the Register of Sasines?—Well, of course, personally, you

must remember that in the office I held I had nothing directly to do with that; but, of course, I have known a good deal about it.

58,472. The point arises in a concrete form with regard to the relations with the Secretary for Scotland. The Keeper of the Register of Sasines holds that he ought to report direct to the Secretary for Scotland, and the Deputy Clerk Register and some other witnesses hold that he ought to report through the Deputy Clerk Register?—I do not see that my opinion is any better than any other person's, but I think that it should be the latter.

58,473. Then you would give the Deputy Clerk Register a real control of the Register House departments?—The administrative work. I mean if a clerk has done something he ought not to do, I think he ought to put the matter before him as the Court of Appeal.

58,474. What is your view as to the position of the Court of Session?—I do not think the Court of Session has any function administratively with regard to the Register House. It must, of course, have its present powers of being able to order the deeds up at once.

58,475. The question was raised as to whether the Court of Session ought to have complete control over the system of registration. It was contended that in the past it used to have such control, but doubts have been raised as to whether the Act of 1868 had removed that control?—I am not prepared to give a legal opinion, because I have not looked at the Act of 1868; but I have no hesitation in saying this: if you go far enough back, you must remember in these days there was but a very slight tie between here and the central Government in London. I have no doubt that the direct administrative control, however it may stand in strict law, has long ago slipped out of the hands of the Court of Session. All that they have had, and that must not be taken away from them, has been absolute power to order up the books if they wanted to see them, and that must be left, of course; but they have never troubled themselves with the details of the office, although I think, if you were introducing any great alteration in the way of keeping the records, it would be very foolish not to consult the judges about it, as people who had some sense and knew what they were talking about. But except in that sense, I do not think that the judges have really anything to do with it.

58,476. If it were a question of substituting typewriting, or mechanical reproduction, do you consider the Court of Session ought to have the final voice?—No, I do not.

58,477. Who should have the final voice?—I think, so to speak, the Government are responsible. You see there are certain things you can do without legislative sanction and others you cannot. Speaking roughly, I should think probably you might typewrite without legislative sanction, but certainly you could not photograph. You would have to look up the statutes under which the Register of Sasines was established. Well, that takes you back to 1617. Then you would have to discover whether the writing that was there mentioned included typewriting.

58,478. (*Sir George Paul.*) It was supposed that legislation was necessary and a Bill was brought in 1893, and it did not go any further?—Yes, I had to do with it. It was not my own rotten egg exactly; I brought it in on the recommendation of a Commission, but, however, I thought it was really your society and the other society that wrecked it.

58,479. (*Chairman.*) In anything that can be done without legislation, do you consider that the Secretary for Scotland should be the final authority for deciding?—I think he must be, but, as you understand, that does not mean that I think that the sasines are to be in his control.

58,480. Is it not the case that the details of the system of registration were regulated by Act of Sederunt?—I should think that is certainly the case.

58,481. So far as any change involved alteration in an Act of Sederunt the Court of Session would be the authority for modifying it?—The real truth, of course, is that the thing has slipped away from the Court of Session. In the old days there was no

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Secretary for Scotland; it was the Home Secretary. I do not suppose that the Home Secretary knew what a sasine meant, and if the Court of Session had not stepped in and made Acts of Sederunt nobody would have done anything, and therefore they did it, but in these latter days things are changed.

58,482. The result is that there are four different authorities concerned, and it appears that the exact sphere of the four authorities is not clearly defined?—I believe so.

58,483. You would not be inclined to increase the direct control of the Court of Session?—No, I do not think it is wanted, and I do not see that they are in a position to do it nearly as effectively or nearly as well as the people who do it just now.

58,484. (*Sir George Paul.*) The Acts of Sederunt regulating the Sasine Office were introduced through the reports of Thomas Thomson in 1821, when the number of pages in the book, and the number of lines on the page, and how many words were to be put in each page were regulated by Act of Sederunt?—Yes.

58,485. (*Chairman.*) The special departments for transacting the Lord Advocate's own business are the Crown Office and the Legal Secretary?—Yes.

58,486. There are also the Advocates Depute who change with the change of Government?—They are his deputies, and when he falls therefore they fall.

58,487. The Crown Agent also changes?—Yes.

58,488. Is that a satisfactory system?—Quite satisfactory.

58,489. The Advocates Depute are engaged in matters of criminal prosecution?—Yes, practically. They sometimes are asked to make reports and certain other things, but not often.

58,490. Is there any reason why these should be political posts, and change with the Government?—I think so, because after all they are the Lord Advocate's own men, so to speak, and he is responsible for a great deal of what they do, and I think a close association between the Advocate and his deputies is very much to be desired. I think that has acted quite well; there has never been the slightest objection to these posts being political, and I think they should continue to be political.

58,491. What exactly are the functions of the Crown Agent?—Well, the Crown Agent is the head of the Crown Office, that is to say, of the staff of clerks there, and he is bound to look after them, and see that the work is properly done. He has just got the functions in a criminal case which an ordinary solicitor has in a civil case—that is to say, to prepare the work for the counsel who are going to plead it, the counsel who are going to plead it in this case being the Lord Advocate, the Solicitor-General, and his deputies, and he has got to do the agent's work. Practically, of course, as he is a man from outside, it means really that it is supervising work. It has been exceedingly well done, and I would not change it. Theoretically, I quite see that if the Crown Agent chose to be exceedingly lazy he could be. I don't know who would be there to keep him right, but so far from being lazy, all the Crown Agents I have known have devoted a great deal of time and attention to the office, and have done the work remarkably well. It is the one little sort of feather in the solicitor's profession, and it is looked upon as a great compliment to be made Crown Agent, and I think the sort of feeling of pride of place has made the man put his best leg forward. But I agree if he chose to scamp it I don't know who would stop him.

58,492. And the work of the office would go on all the same?—I do not think it would go on all the same; at least I hope not. It would go on.

58,493. One other question on quite a different matter. Evidence has been given on the subject of pensions for those legal offices which at present are not pensionable, in particular, the Sheriff Clerks, their deputies, and the Procurators Fiscal?—That gets back to what I said a good long time ago. I mean to say it just depends on what system you are going to work on. I quite understand the Treasury position, that as long as these men are not responsible to the people, they should not come under the Civil Service pension system, but, on the other hand, if you

make them all public appointments, then there is no reason why they should not be pensioned, just as much as any other public office is pensioned.

58,494. The great difficulty in extending that to subordinate positions is that some of them are part-time officers?—Quite. You might do it with the Sheriff Clerks Depute, but then you would have to have a great deal of modification of the present system, because you would find if you went round the different sheriffdoms a tremendous difference in the number of deputies that the Sheriff Clerk has. I do not mean by that that in the Glasgow offices there would be a great deal more deputies than there would be in Wick, but that in some places there would be two or three where the work could be done by one, because it lies with the Sheriff Clerk to find the work, and he might find it by giving two men a small salary or one man a large salary, so that obviously you would have to put an end to that. You would have to look up the whole position, and say what number of Sheriff Clerks there should be. The moment you go below that to the merely subordinate writing staff, I think it would be impossible.

58,495. Would it be impossible to meet that by a pension system on contributory basis?—That is scarcely a question for me. I mean my experience does not run to that, and my opinion would be worth no more than anyone else's.

58,496. If a pension system were established, would it naturally follow that an age limit should be fixed for retirement?—I suppose it would. I am, personally, not a great disliker of an age limit. I would have an age limit of 70 for a judge, although some of them are good men after that.

58,497. Would you apply an age limit to the officers of the Court?—I think I would. I mean I do not see much wrong with the ordinary Civil Service rule. There are two things I have not been asked about. One is as to a Permanent Legal Secretary to the Lord Advocate. I do not think that would be a good plan. I think that each Lord Advocate ought to have his own secretary. It is a perfectly confidential post, because he is not only Legal Secretary, but he is Private Secretary as well, and he is absolutely mixed up with the Lord Advocate in all propositions as to Bills and Parliamentary procedure, and, therefore, I do not think it would do to have a permanent secretary there at all.

58,498. Does the Lord Advocate ever take his Legal Secretary out of the Scottish Office?—No, I think he has always taken a Scotch lawyer whom you would not find in the Scottish Office. The thing has gone the other way; the Lord Advocate's Legal Secretary has gone into the Scottish Office. Then the other matter is the question of a committee of Sheriff Clerks to decide all promotions and transfers.

58,499. May I explain what the suggestion was as regards that. It has been pointed out by other witnesses that there would be advantages if promotion in the staff of the Sheriff Courts were not confined to each district, but if there were an interchange. It was suggested that, especially if the number of Sheriff Clerks was reduced, and there were only fifteen of them, a small committee of, say, three principal Sheriff Clerks would be a convenient body to decide on these matters?—I think it would be a thoroughly wrong proposal. In the first place, it would sin, in my view, against what I have already said. It might impose upon the Sheriff persons he might not want. I think he ought to be master in his own house, but besides that I cannot imagine a body that would be more liable to unfortunate influences. In the first place, you cannot have in a committee of Sheriff Clerks the same status as you have in the Lord Advocate.

58,500. This committee was intended to deal with appointments which are not at present made by the Lord Advocate, the appointments which are made by the Sheriff Clerks themselves?—I was supposing, of course, for the moment that you were altering the system to a general public system, but if you leave it among the Sheriff Clerks themselves—I mean, if you leave it still with the Sheriff Clerk, so to speak—the worst objection to it would be you would have undoubtedly the question of the local claim. That is to say, supposing three Sheriff Clerks—say, the Sheriff Clerks in Edinburgh,

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Glasgow, and Dundee—were to decide the promotions, the Edinburgh man would be assailed for one set of candidates, the Glasgow man for the second set, and the Dundee man for the third, and then it would be a question of trying to get hold of local influence; and I am afraid there would be a decided tendency to help those out of your own household.

58,501. What do you think would be the right way of dealing with that matter if there is no suitable man on the spot to fill a vacancy?—I think, of course, it would be far better done by the Lord Advocates consulting the Sheriffs.

58,502. Then would you bring the Lord Advocate into the appointment of the staff of the Sheriff Clerk's office?—It all depends on whether you decide to make it a public service or not. As long as you keep it that the Sheriff Clerk is appointed by the Crown, so to speak, and he is given a certain amount of money to find other people with, I think it is reasonable. On the other hand, if you are going to change that and make the Depute Sheriff Clerks Crown appointments, so to speak, then of course you have got to have some authority, and I do not think you could do better than have the Lord Advocate, with such assistance as he could get from the Sheriff.

58,503. That would apply only to those posts which were made regular Civil Service posts?—Quite. In the case of subordinates, I think you must leave that to the men they are subordinate to.

58,504. (*Lord Dundas.*) In any scheme of general consolidation of the offices about the Law Courts, there are some departments, you told us, that would necessarily have to be excluded—the Judiciary Office, the Crown Office, and the Teind Office?—Yes.

58,505. And, to some extent, the Bill Chamber and the Extractor's Office?—I do not say that you would have to exclude them, but I say that you would have to be very careful as to who you appointed there.

58,506. What residuum would be left? There would only be the Clerks of Court and the Bill Chamber and the Extractor's Office, so far as these latter offices were not excluded?—I do not think there is very much.

58,507. The residuum being so small, do you think there is any room for a general scheme of consolidation of the Court offices?—No. I think a general scheme of consolidation would be a bad scheme, because it would have to bring in these specialised offices.

58,508. If it became the practice that assistant clerks were appointed deputies when the occasion arose, instead of outside men being brought in, is there any other feature that you would suggest as an improvement on existing matters?—No, I do not think so.

58,509. The Lord Advocate's sphere of legal appointments is, of course, a limited one; but you say, in your opinion, it is and would be best exercised by one man, and that man the Lord Advocate?—Yes.

58,510. You have given us your reasons for disliking the idea of an advisory committee?—I think it would be useless and rather hurtful; I do not think it would contribute any knowledge that the Lord Advocate has not got, or could not get.

58,511. You indicated that you thought it would be a fair thing that assistant clerks should be promoted deputies rather than that outsiders should be brought in?—Yes.

58,512. If that particular matter is to be put on that basis, it would hardly be affected by an advisory committee, or anything of that sort?—It would depend on their views, of course.

58,513. I mean, would it not rather be a matter for discussion and agreement with the Lord Advocate?—I think it could be done that way.

58,514. Is it the case, in point of practice, that the Lord Advocates, as far as you know, do give a great deal of personal care and attention even to the minor appointments under their charge?—Of course, I can only speak for myself. I did, certainly.

58,515. (*Sir John Kempe.*) I think your lordship expressed satisfaction with the existing state of things, partly on the ground that the results are quite satisfactory. Of course, you are aware that the change that has been made in the appointments of public servants

was due to great abuses that used to exist. That is to say, the present competition system was brought in because of very great abuses following on the nomination system that used to hold?—I think I have already said that that is the natural outcome of having a body to deal with that is so far too big for any one being to be in the position of having personal knowledge which would enable him to fill up the appointments, but in the set of offices that we are speaking of that is not the case. I mean it is a very small business, and I do not know that there have been any great abuses. I do not suppose my appointments were perfect, but they were at least perfect enough, in so far as I do not remember having any noise about them on that account.

58,516. But the Civil Service consisted in former days of a great many separate offices, and each of these separate offices had its own nominations, but now they are all thrown together. You cannot do that in the legal departments, you think. You could not have open competition for all the different offices of clerks, because they require different qualifications. That is one of your reasons, I suppose?—Yes. In other words, I do not think the two cases are similar. That is what it comes to.

58,517. I think you said you yourself had introduced some reforms which have not been carried out since?—I did not say that. Somebody else suggested that; I think the Chairman put it to me. I do not know, and still less want to criticise, what has been done since my day, and my day in that matter ended in 1903.

58,518. You do not consider that the legal conscience is different from the civil conscience. You do not think there is less liability to abuse by a lawyer than there would be by a civilian?—No, I think lawyers and civilians are both subject to Satan, but I think the real difference is that the one is a very small place where you really know what you are at, and the Civil Service, as a whole Service, is a very big place where you could not know where you were.

58,519. (*Mr. Boutwood.*) I gather that upon that question of making a consolidated service for the offices in and around the Court of Session, practically after you have made the exceptions that seem to you necessary there is nothing left to unify?—Not much.

58,520. Then, about the Lord Advocate, I do not quite know what position you leave us in. It seems to me that the Lord Advocate is purely political, but that he probably knows the actual field of selection better than any substitute?—Yes.

58,521. Supposing one wanted, for reasons that seemed sufficient, to alter this political tradition, what would you do?—Well, you must give the patronage to somebody. That is obvious. That somebody must either be a person or a congeries of persons called a committee. I do not myself believe in committees at all for that class of thing. I do not think they do nearly as well as a single man, because I say they did not have the same real sense of responsibility, and instead of one man being canvassed you have three, or whatever number there is on the committee. Then you have even temptations to have a party in the committee. I mean to say there may be a certain portion of the committee who want to favour people they themselves know, or people who come from their part of the country, and so on. I think you have all the temptations of bad patronage simply accentuated by the number of men you have on the committee. Of course whenever you have a committee of a small number you will have a preponderance of what you may call the strongest man, but does that advance matters? On the contrary, you hurt him very much by a committee, so that anyhow you are back again to the one man. As I tell you, I do not think there is any better man than the Lord Advocate. I have got great objections, as I said, to the taking of the judge, and if you take anybody outside altogether, I do not know that he will be less amenable to political influences, and so on, than the Lord Advocate.

58,522. But if you leave it with the Lord Advocate what would you do to him to make him non-political in his patronage? How could you bring that about? Would

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you just have to trust to the gradual amendment of his conscience in the right direction?—I believe you would. Suppose the Government came to that conclusion and the Prime Minister told the Lord Advocate, “You are going to have your old patronage, but “remember it is not to be political at all,” I do not think there would be any difficulty in carrying that out, because the Lord Advocate might be very anxious and willing to appoint a political opponent where in the old days he would not have dared to do so, because he would have caught it too hot from his old party.

58,523. (*Mr. Graham Wallas.*) I have some difficulty in deciding what is the exact meaning of the expression “political appointment.” One gathers, I put it to you, that it refers rather to services than opinions—that you do not make an elaborate inquiry into the man’s abstract opinions, but it is understood that the real claim to office is actual political work?—I think, as a general rule, you may assume if a man does political work for a party his opinions coincide with that party, but certainly it is services.

58,524. You warned us that we should not necessarily draw an analogy from such a big thing as the English Civil Service?—Yes, quite.

58,525. A good analogy might be found in some of the Colonies. You know, as a matter of fact, that attempts have been made in Australia and New Zealand, and with less success in Canada, to prevent permanent appointments being made for political reasons?—No, I do not.

58,526. What I wanted to put to you was this, if attempts have been made in the colonies to bring political appointments to permanent administrative posts to an end, does that seem to you to be an entirely Utopian suggestion?—It is not entirely Utopian, but I think it is quite unnecessary for what you have got to deal with. I do not think, as a matter of fact, that so far as the Court of Session is concerned the present system has landed them in any impropriety.

58,527. You would agree that, outside the question of whether political appointment to permanent posts is good or bad, you have to consider its effects all round, its effects on politics as well as on the efficiency

of the persons occupying the posts?—I do not think that in what we are dealing with there is any reflex action of that sort.

58,528. Would not you agree that the system of party government is only tolerable when men are ready to hang back if they are convinced their party programme is a mistake and to change their party?—That may be so for the House of Commons, but for the moment I do not see the point of it.

58,529. Take the man who finds that he is most useful as a politician when his party programme is least defensible, who feels that politics are to him a business and not a mere matter of opinion; such a man does in any locality constitute a real political danger?—Yes; but I think the answer to that is this: There are not a sufficient number of these appointments as would ever pay a man to chalk out for himself a party career with the view of ending his life in one of these departments. Take the people we have been talking about, the Clerks of the Court of Session; I do not know what the average appointments will be, but, certainly, if you had one in every three years it would be about the most.

58,530. But if you take the whole body of these appointments, the appointments in the Sheriff Courts, the appointments of the Procurators Fiscal, and various appointments in the courts, and remember that you you are not dealing with a very large profession in Scotland, is not it the case that the ambitious young Scotch lawyer does from the beginning think about his political future?—I honestly do not think so. I think you will find that the proportion of appointments from the profession is so infinitely small, that no man would really go into the profession with the view of, so to speak, securing an appointment. I do not think it is possible for a young Scotsman to start with the view of securing an appointment.

58,531. Take it he does not start his career at the age of 20 with that idea; but when he is approaching the time when such an appointment is possible, he has a very serious and strong motive to stick hard to his party, without any reference to his secret fears and doubts as to whether the party is right?—That may be.

Mr. JAMES SMITH CLARK, S.S.C., called and examined.

58,532. (*Chairman.*) You are Auditor of Accounts of the Court of Session?—Yes.

58,533. How long have you held that office?—For about 4½ years.

58,534. What was your professional experience before that?—I had practised as a solicitor before the Supreme Courts from 1873, the date of my admission, down to May 1907, when I was appointed Keeper of the General Register of Sasines. I held that office until December 1910, when I was appointed Auditor of the Accounts of the Court of Session.

58,535. Will you tell us briefly what the work of the Auditor of the Court of Session is?—In my capacity of Auditor of Accounts it is my duty to tax accounts of expenses, or bills of costs, of litigations in the Court of Session, under remits by the Court. In accordance with the practice of the office for many years, I also undertake audits of accounts at the request of parties, or otherwise than under remits by the Court, and other business of an auditorial character under remits or extra judicial references. I am debarred from practising in any way, directly or indirectly, as a law agent.

58,536. By whom are you appointed?—My commission is from the King. I think I am appointed by the Secretary for Scotland on the recommendation of the Lord Advocate.

58,537. Does your warrant of appointment contain a limitation of the age at which you may hold office?—No.

58,538. What staff have you assisting you in the duties of your office?—My official staff is one clerk, for whom the Treasury makes an allowance of 150*l.* per annum. My actual staff consists of 10 clerks, all paid by me, with the exception of that sum of 150*l.*, which is derived from the Exchequer.

58,539. What is your own remuneration?—My official remuneration is 700*l.* per annum, plus that 150*l.* of an allowance for a clerk.

58,540. Does your official salary cover all the work that you do under remits from the Court?—Yes, in substance it does. There are one or two trifling remits which I think I bring out in a separate answer, but which are scarcely worth labouring here.

58,541. You have other remuneration from fees in addition to that?—Yes, from the private references which I have alluded to.

58,542. Are those private references matters which attach to your office, or is it a matter of selection by the parties?—It is entirely a matter of selection, with probably one exception which it is probably right to mention. A testator, a good many years ago, made a provision in his will that his trustees’ intromissions were to be certified by the Auditor of the Court of Session. With that exception, it is a mere matter of selection as to who shall be auditor or who shall tax the accounts.

58,543. As a matter of fact, are all private taxations generally brought to the Auditor of the Court?—I should think the majority of taxations in the sense of pure taxation of accounts are. I mean in Edinburgh and district. Outside Edinburgh and the immediate district it is a mere matter of arrangement. The much more severe work of my department in this aspect is what we know as the audit of cash accounts. A very small amount of that comes to my office. There the parties frequently select accountants.

58,544. What kind of cash accounts do you refer to?—Cash accounts of trustees and public companies and the like. These may be sent to me or, indifferently, they may be sent to any chartered accountant or law agent in Edinburgh.

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58,545. These are ordinary accounts, not necessarily of a legal nature?—Not necessarily legal at all.

58,546. Do you also receive fees for certain work for Government departments?—Yes, I have given you a note of these, I think, in answer to query 4. There are certain fees which I have described as *ex officio*, the average per annum being 40*l.*; and then there are fees which some public authority, such as the Board of Agriculture, who has been a party to an arbitration or anything of that kind, pay to me when the accounts are remitted to me, and I identify these in the books by marking that they are payable out of public funds. The average there amounts to 39*l.* per annum. We regularly make a return of the amount of these fees to the Exchequer.

58,547. Does the larger part of your work consist of judicial remits or private work?—Private work. The official work, I should think, would occupy me and a clerk at 150*l.* a year less than 2½ or 3 hours a day. For the other work it takes the whole ten clerks, one of whom is paid, I should think, four times the allowance which I get for him from the Exchequer, the rest of the time. That clerk is indeed about as highly paid as any Civil servant in Edinburgh, except the head of a department.

58,548. You have given us some figures as regards the number of accounts and remits that you deal with?—Yes, I have selected three years—1912, 1913, and 1914. I selected that period because the 20th of July 1914 was the latest date according to my books for which I had complete figures. The actual number of judicial accounts taxed during the period of 1912 amounted to 1,158, including decrees in absence, the total amount of which, as given in to me, is 112,510*l.* During 1912 there were 1,880 extra judicial remits, including 88 cash audits, that is, the audit of the cash intromissions of trustees and others with estates, and involving the taxation of accounts amounting, as given in, to 187,036*l.*, and the fixing of agents' and factors' commissions, amounting to 35,081*l.*

58,549. What exactly is the distinction between judicial accounts and extra-judicial remits?—It is a very decided distinction in Scotland. The judicial remits are all sent to me as the result of litigation in the Court of Session. That is, a remit is made by the Lord Ordinary in the Outer House, or by the President of either of the two divisions where the litigation has ended in the Inner House, and the whole fees for the taxation of these accounts are paid by stamps and go into the appropriate fee fund. In regard to the extra judicial remits, in Scotland no legal procedure is necessary with a view to such taxation. The parties sit down and write a docket, "We request So-and-so to tax this account." That would be a sufficient warrant for any lawyer in Edinburgh to tax the account, or for the occupant of my chair to tax it, and frequently such a document is signed remitting the account to a chartered accountant to tax. It is entirely at the disposal of the client and his agent as to who shall tax these outside accounts.

58,550. You receive fees for these accounts?—Yes. The fees are limited in this way, that my commission expressly stipulates that in no case shall I charge a higher fee for private taxation than is chargeable under the rates fixed by the Court for judicial work.

58,551. It is perhaps unnecessary to take the separate figures, but will you give us the average for the three years?—Taking the three years ending July 20 1914, the total number of judicial accounts was 3,149, and the amount of the accounts, as given in, was 324,597*l.*, giving a yearly average of 1,049 accounts, amounting to 108,199*l.* The total number of extra-judicial remits dealt with in the same period was 5,761, including 273 cash audits, and involving the taxation of accounts amounting, as given in, to 609,740*l.*, and the fixing of 97,916*l.* of commission, giving a yearly average of 1,890 remits, including 91 cash audits, 203,246*l.* of business accounts, and 32,638*l.* of commission. Then I think I have added these together.

58,552. The extra-judicial work is not far short of double the judicial work?—I should think about that, more than double, if you take into account the element of the cash audits, because there, for example, you may

have a single account which may involve the work of two highly-paid clerks for probably two or three months, and the charges for these are carefully regulated according to time in carefully-kept volumes which have gone on for half a century, and have been continued by me on entirely the same lines as left to me by my predecessors.

58,553. Is there any inconvenience in the system?—The only possible inconvenience would be this, if judicial work was at any time delayed; but that has been obviated during the whole period that I have known the Auditor's office, which goes back for nearly half a century now. The remits from the Court, which may be called the non-paying work from the Auditor's point of view, invariably get the preference. If any work is delayed it is the private work. As a matter of fact, the work is so thoroughly kept up to date, that at this moment, I may inform the Commission, I have a week of compulsory holidays in the middle of session thrown upon me because there is no work to do, taking the whole work combined.

58,554. You receive fees for certain business from public departments who send their accounts to you to be audited?—Yes.

58,555. You might have a system under which the Auditor was paid a salary which included the work sent to him from public departments, the salary being increased to represent that work?—I think no occupant of my chair would object to that in the slightest degree. The whole question is such a slight one that it barely raises a question of principle at all, and I do not think any question of controversy would arise about it one way or another.

58,556. Has that question been raised?—I have never heard it raised.

58,557. You appoint your staff of clerks yourself entirely?—Yes; they were appointed by my predecessor and I kept them on.

58,558. And you do not suggest any change?—None whatever. The only change that has occurred lately is that the health of my chief assistant has broken down, and there it might be necessary, if that continues, that I should promote some member of my staff to his post, or it may be to divide his work between two of the head clerks and make some suitable arrangement for their salary.

58,559. Your staff are not pensionable?—They are not pensionable, neither am I.

58,560. Does any inconvenience arise owing to that?—I have never heard of any inconvenience, and I speak from considerable knowledge of the department from the year 1868.

58,561. You told us that the health of your chief clerk is unfortunately failing?—Yes, it has failed.

58,562. Is that not a case where a pension system would meet the difficulty?—For special reasons I do not think a pension would intervene there.

58,563. (*Lord Dundas.*) You have told us that you receive a considerable amount of work in the form of voluntary references to you by parties who wish a business account taxed?—Yes.

58,564. You are there just in the position of arbiter between two private parties?—Yes.

58,565. And, of course, the parties pay you a fee upon the restricted basis you have mentioned?—Yes.

58,566. When you have pronounced your decision on that account, the thing is done, I suppose?—Yes.

58,567. There was some doubt, I think, in the minds of some of the Commissioners at an earlier stage. In such a case would it be possible that the taxation of that account should ever come to be submitted to the Court of Session and have to be revised by you as Auditor of the Court of Session?—It never could be, except probably on the same grounds as is applicable to arbitrations both in England and Scotland, as I understand it—if there were averments sufficient to be remitted to proof of corruption.

58,568. But in the ordinary course of events it would be impossible for such a situation to arise?—Quite impossible. My judgment is final, with the qualification I have given. Then there is possibly just one other thing I might mention. I have here an excerpt which I would like to put in. I see that the

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question of the combination of work, and so on, seems to have been very seriously considered by a Law Courts Commission in 1868, and I thought you might want a reference to that Commission. It was presided over by Lord Colonsay, and my predecessor, Mr. Baxter, gave evidence. I thought I might read an excerpt here of some of the leading points in the Report: "The office of Auditor was instituted as a temporary measure by the Court in the year 1806, and a scale of fees for his remuneration was fixed by the Act of 1810, Section 48. The office was made permanent by the Act of 1821, Section 32. Instead of fees a salary of 700*l.* was provided for by the Act of 1838, and certain fees substituted for those fixed in 1810, and on a much lower scale, are now paid into the Fee Fund. As between party and party in almost all suits, and frequently as between solicitor and client, the Auditor of Court has to tax the bills of costs, under remits by the Court. That his office as regards bills so taxed under remit is of importance, may be seen from one fact mentioned by the present Auditor, viz., that the amount of accounts which he taxed under judicial remits during the three years from October 1866 to October 1869 was nearly 200,000*l.* The Auditor's salary of 700*l.* was the rate recommended in 1816 and was fixed at that sum by the Act of 1838. It has not since been increased. For audits of accounts at the request of parties, or otherwise than under remits by the Court, separate fees are paid by the parties. We quite approve of the Auditor continuing to make such audits—the system having been found not to interfere with the Auditor's judicial work, and to afford solicitors and their clients an expeditious and satisfactory mode of adjusting their accounts at a moderate cost. Notwithstanding of the fees thence arising, it appears to us that the salary should be increased to 1,000*l.* The Act of 1821 provides that 'no person holding the said office shall, under pain of deprivation of office, practise, either directly or indirectly, as an agent before the said Court of Session.' In a subsequent part of this report we propose an alteration of this regulation. But as to the present and the late Auditor, we have to report that each deemed it his duty wholly to relinquish business as an agent or solicitor, and to confine himself strictly to his official duties, and to business of

"an auditorial character under remits or extra-judicial references. From the great variety of details to be considered in taxing bills of costs, the right performance of the duty of Auditor requires much knowledge of business, much previous preparation for each audit, and much care and judgment in hearing parties, and dealing with each objection to specific items. The cost of discussing in court an objection to an audit makes the decision of the Auditor practically final in nearly all cases. It is obviously expedient that such an office should be so remunerated as always to secure the services of professional men of wide experience and high professional position. Provision is made for a Clerk to the Auditor, who, among other duties, fixes and notifies appointments for taxation, and checks all summations of accounts and deductions. His salary is 150*l.*"

58,569. (*Sir George Paul.*) The parties come to you not because they are bound to come to you, but because you are skilled in the taxation of accounts?—I presume that the occupant of my chair is gone to on the latter footing, and if he became unsatisfactory to the profession or their clients, then these remits would probably go to the President of one or other of the legal societies, who would then command the necessary confidence, although they very often could not devote the necessary time to work of that class. I rather think that they would find that it would interfere with more important business.

58,570. (*Mr. Graham Wallas.*) Might a case arise where one of your successors might find that his duties as a public auditor might lead to his making himself rather unpopular with the profession?—I do not think so.

58,571. You cannot imagine that that might be a difficulty arising when the larger part of his income is derived from private practice?—I cannot understand the question of popularity entering into the auditor's mind for a moment. If it did he would certainly be quite unfit to be there.

58,572. Supposing the situation was going to be created for the first time, might it not be somewhat of an anomaly that the gentleman whose business it was to be financially in charge of Government business on the one hand should have a large part of his income derived from a private practice on the other hand?—I think not. It has worked satisfactorily for a century.

Mr. JOHN HAMILTON, Mr. ANDREW HAMILTON, and Mr. JAMES CHALMERS CROSBIE, called and examined.

58,573. (*Chairman.*) (*To Mr. John Hamilton.*) You are a clerk in the Sheriff Clerk's office in Glasgow?—Yes.

58,574. How long have you been there?—I have been there 30 years. I started in 1835.

58,575. What age were you on your original appointment?—Fourteen years of age.

58,576. You went straight from school?—Yes.

58,577. (*To Mr. Andrew Hamilton.*) You are also in the Sheriff Clerk's office, Glasgow?—Yes.

58,578. What age were you on your original appointment?—Scarcely 14. I went direct from school.

58,579. And how long have you served?—Twenty years.

58,580. (*To Mr. Crosbie.*) Where are you serving?—In the Sheriff Clerk's office, Dumfries.

58,581. How long have you served there?—Seven years.

58,582. You went at what age?—Seventeen.

58,583. (*To Mr. John Hamilton.*) I understand you speak first on behalf of the clerks in the Sheriff Clerks' offices?—Yes.

58,584. What is your commission to speak for them? Do you represent any association?—I represent the clerks of the Glasgow staff, and I also represent Edinburgh, Dundee, Forfar, Ayr, Kilmarnock, and Dumbarton.

58,585. That is a commission given to you to represent them for this particular purpose, not as an official of an association?—Yes; I wrote to them and asked their permission to appear for them.

58,586. They are aware of what you are going to say?—Yes.

58,587. What is the total number, approximately, of clerks in the Sheriff Clerks' offices?—150.

58,588. That is apart from the deputies?—Yes.

58,589. The Commission have already had evidence as to the work done in the Sheriff Clerks' offices: therefore I need not trouble you on that point. Will you tell us briefly what points you wish to bring before the Commission?—The points are mainly under-payment and the want of promotion.

58,590. Dealing with the first question, as regards under-payment, what are the facts?—I may state that a clerk of the same experience as myself has about 198*l.* of a salary.

58,591. That is your present salary?—Yes. Of course there are no other departments we can contrast our position with, but I take the liberty to contrast them, say, with the second division clerks who are employed in many other Government offices, and their salary commences at 70*l.*, rising by 7*l.* 10*s.* annually up to 130*l.*; then by 10*l.* to 200*l.*; and thereafter by 10*l.* to 300*l.*; so that a clerk in the second division after eight years' service has 130*l.* and after 25 years' service 300*l.* In the Glasgow Sheriff Court, of course, a clerk after 30 years has not more than 200*l.*

58,592. At what age does the second division clerk enter the service?—At 18 years of age.

58,593. As compared with 14 in your case?—Yes.

58,594. And he has to pass a competitive examination?—He passes the ordinary Civil Service examination, with no specific subject.

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[Continued.]

58,595. But with tolerably severe competition?—Yes.

58,596. What salary did you receive when you were first appointed?—10*l*.

58,597. And did that increase fairly rapidly?—No, it just increased as promotion arose in the office.

58,598. What age were you when you reached your 100*l*. a year?—I was 14 to 15 years in the office before I reached 100*l*.

58,599. So that when you were about 28 you were getting 100*l*. a year?—Yes.

58,600. Can you make a comparison between the salaries received in the Sheriff Clerks' offices and those received in private offices of law agents?—I believe in Glasgow it may be taken for granted that the salaries in the Sheriff Clerks' offices are probably a little better than the salaries in the ordinary legal offices in Glasgow. Of course the general result is that as there is a great amount of competition the salaries are low. In the Sheriff Clerks' offices you have no promotion; you have no chance of going from the Sheriff Clerk's office to any other department.

58,601. What prospects would a man in a law agent's office have of rising elsewhere?—The prospects are that after five years' apprenticeship and after passing the examination as a law agent many offices are open to him, such as Town Clerkships and other offices on County Councils. He may also start business on his own account. He may make a fair living wage there.

58,602. I suppose that the majority of young men who enter a law agent's office would remain in a law agent's office?—Not necessarily.

58,603. Supposing they remained there, what would be the highest salary they could expect?—I can only speak from advertisements I have seen in the papers. I have seen a Procurator for a law office advertised for at 60*l*. a year.

58,604. (*Sir George Paul.*) In the large offices the salaries are very much bigger than that?—I am only speaking from public advertisements.

58,605. (*Chairman.*) Can you say what the head clerk in a large office has?—Well, a book-keeper in a large office may have anything from 300*l*. to 400*l*.

58,606. What are the highest salaries paid in the Sheriff Clerks' offices, leaving out of account the deutes?—The highest salaries are paid in Glasgow, and, I think, the highest is 203*l*. That is a clerk with 30 years' experience.

58,607. And what is the position of the clerks as regards their prospect of promotion to deutes' posts?—I may state that in Glasgow—of course, I am only speaking of Glasgow—since I went there there have been only two changes in which the staff was reorganised from top to bottom, and that was on the death of two senior deutes who had served 50 or 60 years in the office and were over 70 when they died or retired.

58,608. How many deutes are there at Glasgow?—Six.

58,609. Had those deutes previously served as clerks in the office?—Five of them had. One was brought in by a Sheriff Clerk over the heads of the staff.

58,610. One of them is now receiving 500*l*. a year?—I cannot state the deutes' salaries.

58,611. Is it the usual practice for men to be appointed at the age at which you entered the office, immediately after leaving school—at the age of 14 or thereabouts?—They enter the office at that time, most of them.

58,612. It is not often the case that a man is appointed who has had previous experience in a law agent's office?—That is the only exceptional case that I have referred to.

58,613. Is that because the Sheriff Clerk prefers to take the boys direct from school, or because the salaries are not attractive?—I suppose in many offices they are glad to get boys at any price.

58,614. Is there a difficulty in getting boys?—Yes.

58,615. In Glasgow is there a difficulty?—Yes.

58,616. Has that recently arisen?—It has recently arisen, I would say.

58,617. Then your representation is that the present salaries are not adequate?—Yes.

58,618. But you base that rather on a comparison with the Civil Service salaries than upon the salaries paid in law agents' offices?—Yes.

58,619. You admit that your salaries are probably better than the salaries in law agents' offices?—Probably they are, taking Glasgow alone.

58,620. The second point is the want of facilities for promotion and advancement?—I might explain that promotion is usually confined to the county in which you start business, and therefore you have to wait on practically dead men's shoes.

58,621. Would it be practicable to have a system under which promotion by transfer to other places was open to clerks?—Yes.

58,622. Appointments are made by the Sheriff Clerks?—Yes.

58,623. How would you meet this difficulty? A Sheriff Clerk in Aberdeen, let us say, might not wish to appoint somebody from Glasgow; he might have somebody in Aberdeen he wanted to appoint. What system do you suggest?—We suggest that it should be under a committee of the Sheriff Clerks Association, who would deal with the whole staffs all over Scotland, or by a special supervisory committee.

58,624. Those are two alternatives, the first being a committee of the Sheriff Clerks Association?—Yes.

58,625. You think it would be practicable for such a committee to arrange a system of general promotion?—Yes, providing the salaries were sufficient to induce a clerk to travel a long distance to keep himself.

58,626. Would clerks, as a rule, be prepared to go to another town in order to get promotion?—Speaking for Glasgow, I think there would be no difficulty.

58,627. Possibly, some arrangement for assistance in travelling expenses might be necessary?—If the salary is sufficient, I do not think there is anything required for travelling expenses.

58,628. At present the Sheriff Clerk is personally and pecuniarily responsible for his subordinates?—Yes.

58,629. Would there be any difficulty in a general system from the fact that a Sheriff Clerk might not be prepared to accept a particular clerk from another office who was recommended by the committee?—There might be.

58,630. How do you propose to get over that?—Of course, speaking for the general body of clerks, if there was promotion, and the committee recommended them, I suppose if it was a committee of the Sheriff Clerks Association, the particular Sheriff Clerk would require to accept the clerk they appointed.

58,631. You would make their decision binding on all Sheriff Clerks?—Yes.

58,632. Might they not have some objection in that case to maintaining the system of personal responsibility for their subordinates?—They would still have the supervision of them.

58,633. Still they might say, "I am not responsible for the appointment of this man; I cannot be responsible for his conduct"?—They might dismiss the clerk if his conduct was unsuitable for the office.

58,634. If you had a system of that kind, with whom do you contemplate that the power of dismissal should lie?—They should have the recommendation for dismissal of the staff.

58,635. To whom?—To the committee, or whoever is to deal with the general appointments.

58,636. In fact, you would make the committee the responsible body for appointment and dismissal?—Yes.

58,637. Are there any other points that you wish to add on that subject?—There is nothing more, unless to state that the few objections that we take are with regard to the under-payment of the clerks and the want of promotion.

58,638. (*To Mr. Andrew Hamilton.*) Have you anything you wish to add?—Nothing on the general question, but I wish to explain that in Glasgow there is a special department which I represent. Each resident Sheriff Substitute has a clerk assigned to him to do his

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particular work, and, if I may be permitted, I have prepared a statement which I might be allowed to hand in on behalf of those clerks. We are clerks on the general staff, we are not separated from them, we are appointed by the Sheriff Clerk.

58,639. But you are appointed as personal clerks to the resident Sheriff Substitutes?—Yes.

58,640. Does your case differ in any respect from the case of the clerks in general?—No, except that our work is a little more responsible. We work generally without supervision.

58,641. Your point is that that is specially responsible work, and you therefore claim that it ought to be more highly paid?—Yes. As an instance of the underpayment of that class of clerks, I may say that my present salary is 109*l.* per annum. I have been 20 years in the service and I have had experience of all departments of the service. For the last five years I have acted as clerk to Sheriff Craigie, and my increases of salary during the past four years have been three times 3*l.* annually.

58,642. How are the clerks attached to the Sheriffs selected?—Usually from among the senior members of the staff, or from members who have had a long experience of the work.

58,643. And their salary is what it happens to be?—Yes.

58,644. No special salary attaches to that office?—No.

58,645. Some of them are in receipt of salaries considerably higher than yours?—I cannot speak for that.

58,646. Would you be surprised to hear that one of them is in receipt of 185*l.* a year?—I believe the Sheriff Principal's Clerk may have that. I can talk for at least two members of the staff whose salaries are under mine and one who has the same salary and all of whom act as clerks to Sheriffs.

58,647. Strictly speaking, the case of these particular clerks attached to the Sheriffs does not differ from the clerks in general?—I do not suggest that.

58,648. (*To Mr. Crosbie.*) Do you wish to add anything in respect to the smaller places specially?—I come from Dumfries. I have been seven years in the Sheriff Clerk's office there, and I am getting a salary of 30*l.* from the Exchequer.

58,649. When you say "from the Exchequer," do you mean that you receive no remuneration from any other source?—I have other private employment which I do after office hours.

58,650. Is that for the Sheriff Clerk or for somebody else?—For the Sheriff Clerk.

58,651. In the case of Dumfries, has the Sheriff Clerk a private practice?—No, but he holds separate appointments in conformity with his commission.

58,652. Are these appointments clerkships to public bodies?—Yes; he is clerk to the School Board, a position which he held previous to his appointment as Sheriff Clerk, and the other one is secretary to a shipping company.

58,653. And you receive some additional remuneration for work done out of office hours in respect of these offices?—Yes.

58,654. As Sheriff Clerk has he any other clerks besides yourself in the office?—There used to be five in the office, but now there are only three. We cannot get clerks to come into the office. Last November one of our staff left the office to join the Colours, and after repeated advertisements from then till February, we were without a clerk and we had only two.

58,655. You now have three?—Yes.

58,656. Can the work be done by three?—No.

58,657. What happens?—For the first three months of the year, to cope with the work we have to work till about three in the morning.

58,658. In ordinary times, apart from special difficulties created by the war, is it easy to find men for the posts in the office?—No. I have been seven years in the office and there have been nine clerks altogether. They only stay a very short time and then go away.

58,659. If a general system of promotion were established, as Mr. Hamilton suggested, would there be

any difficulty, do you think, as regards transfer from one place to another? Would clerks from Dumfries be ready to go to other places in Scotland to get promotion?—Yes. In one of the other counties there are two clerks with 24 years' service getting a salary of 70*l.* That is another country office.

58,660. (*Mr. Boutwood.*) (*To Mr. John Hamilton.*) You mentioned the Sheriff Clerks Association. What is that association?—It is an association of the Sheriff Clerks themselves, the principal Sheriff Clerks throughout Scotland.

58,661. You think a committee of that association might look after the general matter of transference and appointments?—They might arrange for the transfers from one county to another.

58,662. I suppose with an association of that sort you would most likely have a small committee of three or four men who would probably be in the centres of population, and how would they manage to know anything about the Sheriff Clerks' clerks in all the outlying parts of Scotland?—They would have a note of all the clerks with their experience and their salaries before them. If a clerk with 50*l.* was in Dumbarton and there was a vacancy in Glasgow at 60*l.*, it would be an easy matter transferring the clerk with 50*l.* to Glasgow for 60*l.*

58,663. But would they know the man in Dumbarton?—I fancy they would have a list of all the clerks before them.

58,664. How long did you stay at that 10*l.* a year that you started with?—I stayed one year; I got 15*l.* the following year.

58,665. Are you supposed to give the whole of your time to the work?—Yes.

58,666. And what are your hours?—During the weekdays our hours are from 10 to 4, and on Saturday from 10 to 1.

58,667. (*To Mr. Crosbie.*) But you mentioned working till three in the morning?—We work from 10 to 5, but of course we cannot nearly get through the work during these hours. On an average, I think, we work nine months a year to 10 o'clock.

58,668. (*Sir John Kempe.*) (*To Mr. John Hamilton.*) You say many of you start about 14. I suppose you start with 10*l.* a year. What is the first rise?—It all depends on the promotion awaiting us. The regular thing is, of course, 10*l.*, 15*l.*, and 20*l.* You will then probably be stationary there until there is promotion above you—until there is a death or something happens to allow some money to be free to be allocated among the junior clerks, or if the Sheriff Clerk gets an increased allowance from the Exchequer.

58,669. You do not always wait for a vacancy?—Except where an application is made to the Exchequer by the Sheriff Clerk for an increase in his salary allowance.

58,670. That makes it necessary for you to live in your own town?—Yes.

58,671. You cannot live away unless you get a decided rise in your salary?—No.

58,672. (*To Mr. Crosbie.*) You said that your clerks stayed only a very few years. Have you any who have been there longer than seven years?—The Sheriff Clerk Depute.

58,673. But no clerks have stayed longer than that?—No.

58,674. That means that they have all gone between you and the depute from time to time?—Yes.

58,675. And you, I suppose, would go if you got a chance?—Yes.

58,676. That is the same with all of you?—Yes.

58,677. Of course you have no expenses for removal if you do go?—No.

58,678. You have to find your own travelling expenses. That is another difficulty, I suppose?—Yes.

58,679. (*Mr. Clynes.*) (*To Mr. John Hamilton.*) Has your association taken action at any time to try and get your conditions improved?—On two separate occasions prior to this an attempt was made. One move was made about 1890, but a grant was given from the Exchequer which stopped that movement. We

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applied to be recognised under the Minor Legal Appointments, but the Commission had already been fixed and the secretary sent back word saying that, seeing the Commission was already fixed, we were not entitled to be heard, and we had no representation on the Minor Legal Appointments Commission.

58,680. When was that?—1910.

58,681. You told us that when you had been in the Service some 14 years you had reached 100*l.*?—Yes.

58,682. Could you describe to us generally the character of your work at that time?—Well, I started in the branch office at Hamilton and I had experience of the whole routine of the Sheriff Clerk's work there. After five years a vacancy occurred in Glasgow and I was transferred to the Miscellaneous Department, which is akin to the Bill Chamber in Edinburgh, and then a vacancy occurred in the Process Room and I was taken in there; and latterly I came into the Extractor's Department.

58,683. (*Sir George Paul.*) (*To Mr. Crosbie.*) Are you a Sheriff Clerk Depute?—No.

58,684. You have been seven years in the office?—Yes.

58,685. And your salary is 30*l.*?—Yes.

58,686. And that is your whole remuneration?—Yes.

58,687. You have no other appointments?—I get remuneration for private work, but that is my only salary from the Exchequer.

58,688. That is your share of the allowance given to the Sheriff Clerk for his clerk?—Yes.

58,689. (*Mr. Graham Wallas.*) (*To Mr. John Hamilton.*) You, I suppose, have corresponded with a number of the Sheriff Clerks' staff about the country?—Yes.

58,690. And you are familiar generally with their grievances?—Yes.

58,691. Do you ever hear it said that promotion which ought naturally to fall to them has gone to outsiders?—I have never seen it stated in any correspondence I have had.

58,692. Then is it ever the case that an outsider is brought in over their heads to get a large share of the Treasury Grant which might have gone to raising the salaries of men underneath?—I can only speak to one instance, a Glasgow case, where a depute was brought in, and at the same time as he was brought in—of course I cannot connect the two things—a clerk who had 60 years' service lost one-third of his salary.

58,693. Was the depute in that case a relation of the Sheriff Clerk's?—He was a private clerk to the

Sheriff Clerk who had been appointed politically to the appointment.

58,694. But you have not heard of any other instances of that type?—I cannot state any.

58,695. Has your association paid much attention to the question of pensions?—Of course, if we got a good salary and were able to save we would not advocate pensions.

58,696. You have not proposed pensions?—The only case I can instance is the case of a clerk in Perth. Questions were asked in the House of Commons about five years ago about a clerk in Perth who became stone blind. He had to leave the department and no provision was made for a pension. He had 20 years' service in the department. His only means of livelihood after he left the Service was by public subscription from the clerks in various Sheriff Clerks' offices in Scotland. I say in a case of that kind a hardship exists, and I suggest that if the salaries are to remain the same some provision should be made for a pension.

58,697. You are comparing yourselves with the second division clerks who come in some three years' later. Have you ever compared your position with the assistant clerks who go in at about the same age as yourselves. They start, I believe, at 45*l.* and rise to 150*l.*, with the opportunity of promotion to certain posts above?—Yes.

58,698. This Commission has already recommended that instead of that there should be a set of clerks to be called the Junior Clerical Service, who should start at 50*l.* and go up to 200*l.* That scale of salary, either 45*l.* to 150*l.* with staff posts above, or 50*l.* to 200*l.*, would be higher than that which your body generally receives?—Yes.

58,699. Have you ever thought of claiming to be put on that scale?—No. Any good scale, of course, would satisfy us.

58,700. Your position would be greatly improved if you adopted the scale of salaries given either to the existing assistant clerical staff or the proposed clerical staff?—Yes.

58,701. (*Mr. Shipley.*) (*To Mr. John Hamilton.*) You cease work at 4 o'clock, as a rule?—Sometimes. Of course, there are times when we have to stay later.

58,702. And is there any kind of work you could get that would pay you that you could do afterwards outside the office?—It depends on what kind of work you are looking out for.

58,703. (*Mr. Matheson.*) I suppose when you begin you have to live with your own family?—Yes.

Mr. WILLIAM BROWN accompanied by Mr. WILLIAM WEST KERR, called and examined.

58,704. (*Chairman.*) (*To Mr. Brown.*) You alone, Mr. Brown, are going to give evidence?—That is so. Mr. Kerr, Senior Sheriff Clerk Depute of Midlothian, wishes to be present, if that is permissible, to listen on behalf of our Association.

58,705. You are Sheriff Clerk Depute in Renfrewshire?—Yes.

58,706. Where do you work?—In Paisley.

58,707. Are you speaking on behalf of any association?—I am speaking on behalf of the Sheriff Clerks Depute Association, as Secretary thereof.

58,708. Does that association include all the Sheriff Clerks Depute?—Yes, except certain Issuing Clerks and all the deputies in Glasgow. One of the Glasgow deputies, Mr. Wood, who was the senior for many years, was at one time a member of the association, but for reasons best known to himself he withdrew his patronage of the association, and now none of the deputies in Glasgow are members or associates of the Sheriff Clerks Depute Association. But those under the same Sheriff Clerk in Hamilton and Airdrie are members of the association, the President being in Hamilton.

58,709. You have heard the evidence given on behalf of the clerks in the Sheriff Clerks' offices; do you wish to add anything to that with special reference to the position of the Sheriff Clerks Depute?—Nothing further than this, that I appreciate to a large extent everything said by Mr. Hamilton and the other two,

especially with reference to the outsiders being brought in. In my own knowledge, there was one instance when a late Sheriff Clerk brought in an outsider in the same way as Mr. Downie, his successor did, when he was appointed politically Sheriff Clerk, namely, the Mr. Donaldson spoken to by Mr. Hamilton. The Sheriff Clerk referred to in my evidence brought in his brother, who was a bankrupt draper, and made him chief assistant in the office, and appointed superior to all the deputies at that time.

58,710. Where was that?—In the Sheriff Clerk's office of Lanarkshire, Glasgow. That was long before Mr. Donaldson was appointed by Mr. Downie. Mr. Hamilton would know that, but it must have escaped his memory.

58,711. You are acquainted with the recommendation of the Committee on Minor Legal Appointments with reference to deputies; they recommend the creation of two separate classes, one of special deputies who would be permanent officers, and the other would be very much on the same footing as at present?—Yes.

58,712. Do you agree with that recommendation?—Heartily. We produce a copy of a report and memo of the Committee sent to the Secretary.

58,713. Yes, we have it?—We agree upon the lines of that Report.

58,714. Do you think that a system of promotion by transfer between the different offices is practicable? Yes, I am of opinion that it is.

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58,715. There would be no difficulty about removal from place to place?—I don't see why there should be any more than in Excise or Post Office services. The relieving of the Sheriff Clerk of all responsibility for this clerk or another clerk could be got over by insurance.

58,716. Is that ever done?—For many years I had a policy for 1,000*l*. Strange to say, my chief was good enough to tell me this was not to be continued. He said he would drop it.

58,717. He had sufficient confidence in you?—I don't know the cause, but that is the fact.

58,718. Is the system general of requiring insurance?—Yes, and that is spoken to in Departmental Reports. It states that a depute in a responsible position should be insured to the extent of 1,000*l*., but the practice is not universal. That is done in some of the larger towns, and would take place if the Sheriff Clerk is to be held responsible for the illegal acts of his deputies. Of course, that would be exceeding by far 1,000*l*. The Sheriff Clerk does not commission the depute to do any illegal acts. It is legal acts that he is commissioned to perform.

58,719. Have you any other points with reference to the deputies?—Nothing, except a suggested memorial which we prepared, if you are good enough to receive it. I produce it, and also if you will allow me, I produce a draft Act of Parliament which was prepared by the executive of the Sheriff Clerks Depute Association, and which was sent to the late Lord Advocate, Lord Strathclyde. I hand you these copies.

58,720. This is a draft memorial, not an original memorial?—The memorial was handed in.

58,721. After the Report of the Committee dealing with the appointments in 1911?—Yes. There is a table annexed to it, which shows the money which would require to be raised for the implement of the salaries. If that table was so framed in accordance with what is suggested, there would be sufficient money, without embarrassing in any way any Government money, by imposing that extra fee.

58,722. You suggest that additional revenue may be obtained by an increase in the Commissary fees?—Yes, in proportion. Our reasons are given why in all fairness they ought to be raised. At least we have endeavoured to show that in the memorial.

58,723. Your memorial, in fact, is a working out in detail of the general recommendations made by the Committee of 1911, and contains suggestions as to the principle on which salaries should be fixed for the special class and for Sheriff Clerks Depute?—Yes, and how it could be done.

58,724. The Draft Bill was prepared for the purpose of carrying out these recommendations?—Yes, the Majority Report of the Committee. Allow me to point out the long delay which has taken place notwithstanding the statement made by the Committee that the Depute Clerks are underpaid. That is one of the important facts brought out in the Majority Report, and that in certain cases they are overworked, and that their salaries should be fixed and paid by the Exchequer, that the number of Sheriff Clerks may safely be reduced, and that the demands of the deputies, all of which have been recommended in the Report by the Departmental Committee, ought in fairness to be conceded.

58,725. No steps have been taken?—No. I had a letter from the Lord Advocate's Secretary stating that, had it not been for the unfortunate position of public affairs, a Bill would have been introduced this Session to put it through. So in fairness to our association, we think we ought to be heard to some extent in support, and we will be glad if you will consider our deferential statement in the memorial heartily concurring in what the Majority Report recommends should be given to us.

58,726. (Mr. Graham Wallas.) In regard to the bankrupt draper who was taken into a Sheriff Clerk's office, can you give us the details of the salary at which he was appointed?—I could not definitely fix it, but I heard it was 400*l*. a year.

58,727. Do you know what Treasury allowance was given for the clerks in that area?—I don't know, but it was over 2,500*l*. at that time. From time to time, however, on application made and cause shown by the

Sheriff Clerk, the Treasury usually have given certain sums additional.

58,728. But the question whether a fourth part of that sum should be given to one man, or a half, is a matter purely for the Sheriff Clerk to settle?—Yes. The Sheriff Clerk could give the office boy half the salary if he signed the receipt to the Exchequer Department. The Exchequer has nothing to do with the money. They have only to do with the receipts, and make no inquiry as to who gets the money, if it is vouched for. Over and above this they will not allow anything to be receipted by the Sheriff Clerk principal, beyond his own salary, which is sent separately. At one time it was farmed out (if you will excuse the expression). The Sheriff Clerk got a certain sum, including his own salary, and what he was to give his assistants, and after paying them he pocketed the rest. That was rearranged, and the Exchequer insisted on receiving from each Sheriff Clerk, on the 15th of every third month, a detail of all the clerks in his office, together with the amount they were to receive for that quarter, and when the receipts were sent up, I take it for granted, the Exchequer Department would see that the individuals down for certain amounts signed for these amounts and received them.

58,729. If the Sheriff Clerk's son of fourteen signed for half the total, the Department would neither care or know?—I don't know. If the name was the same they might make inquiry, but if it was not the same, and the clerk was some relative, there would be no reason for inquiry. They might think he was a qualified clerk and working for what he was getting.

58,730. (Sir George Paul.) You understood from the Lord Advocate's Secretary that the requests you made were to be embodied in a Bill?—Yes.

58,731. And it was only the present unfortunate state of matters that prevented it being brought in?—That is so.

58,732. This was satisfactory to you?—Yes.

58,733. What you ask the Commission to do is to back you up?—Yes, that is the position.

58,734. (Mr. Boutwood.) What is the length of your service?—As what?

58,735. As anything in the Sheriff Clerk's office?—I have been 38 years in the Sheriff Clerk's office.

58,736. What is your present salary?—At present my salary is 242*l*. 10*s*.

58,737. (Chairman.) How long have you been depute?—Thirty-four years; I am senior depute of the county.

58,738. (Sir George Paul.) Is that in Renfrewshire?—Yes, but I have the supervision of the whole county. I go to Greenock perhaps once in a fortnight or three weeks and manage the work there.

58,739. (Sir John Kempe.) Have you been the whole of your 38 years at Paisley?—Yes.

58,740. Did you never move from anywhere else?—Prior to that I was Chief Clerk in the Commissary Department, and I was solicited by the Sheriff Clerk to come downstairs and assist in the office. I knew something of the duties, because prior to being a clerk in the office I assisted with some of the work for the Sheriff Clerk. I was two years in the office as senior clerk before I was appointed depute.

58,741. What was your commencing salary?—80*l*.

58,742. That is higher than many of them?—But I had 90*l*. in the office which I left upstairs.

58,743. In the same place?—Yes, in the Commissary Department. It is the same place now. At that time there was mention of the merging of the two offices, the Commissary Department being joined with the Sheriff Clerk's Department. There was nothing said as to the joining of the Sheriff Clerk's Department with the Commissary Department—the junction was to be to the Sheriff Clerk's. Commissary clerks were to be joined to the Sheriff Clerks, and I had the inducement, if I went downstairs, that I was going up in salary and position.

58,744. You did not begin as depute?—No, but I knew the work pretty well prior to entering the office, at least in some cases.

58,745. Had you to wait for any length of time at one rate of salary?—Not very long. It was four years before I had 100*l*.

Mr. W. HORN, Mr. G. GILES, Mr. J. R. YEATES (Procurators Fiscal Depute for Midlothian, Glasgow, and Dumbarton respectively), called and examined.

58,746. (*Chairman.*) (*To Mr. Horn.*) Who is going to give evidence?—I am going to speak, and Mr. Giles and Mr. Yeates might be held as concurring.

58,747. You are Procurator Fiscal Depute for Midlothian?—Yes, Junior Procurator Fiscal; there are two deputes.

58,748. (*Chairman.*) (*To Mr. Giles.*) You are Procurator Fiscal Depute of Glasgow?—Senior Procurator Fiscal Depute; there are three deputes.

58,749. (*Chairman.*) (*To Mr. Yeates.*) What are you?—I am Procurator Fiscal Depute of Dumbarton. There is only one depute there.

58,750. (*To Mr. Horn.*) We have been told there are deputes who are remunerated and deputes who are honorary?—We are all remunerated.

58,751. How long have you held office?—I have been employed in the office for the past 31 years. For the first 14 years I was clerk, and for the remainder of the period I have been junior depute.

58,752. Had you any professional experience before that?—Before that I had served an apprenticeship with a practising agent under an indenture for five years. Thereafter I passed the Law Agents' examination, so that I am a qualified law agent.

58,753. There are Procurators Fiscal Depute and Clerks of Procurators Fiscal?—There are two classes.

58,754. How do you divide the duties of these two classes?—(1) Deputes who must be qualified and ready at any time to undertake any duty or responsibility which the Procurator Fiscal may undertake, and (2) clerks who have just the ordinary clerical work of the office to do.

58,755. Do deputes all give their whole time to their duties?—No. Some give whole time, and some part of their time.

58,756. On whose behalf is your present statement made?—It is very largely on behalf of whole-time deputes.

58,757. Are you speaking on behalf of an association?—No, there is no association of deputes or clerks.

58,758. What is your commission; is it to speak on behalf of the whole body?—It is after consultation with my two friends here, and one or two deputes in other places, to whom I have written.

58,759. Then you are speaking on behalf of a limited number whom you have consulted?—That is so.

58,760. Have you any reason to think your view represents the view of the whole body?—I feel certain it does—of all whole-time deputes.

58,761. What is the present method of appointment and tenure of office?—As stated in the memorial, the method of appointment and tenure of office is as follows :

“ At the present time there is no recognised or authorised method under which Procurators Fiscal obtain such deputes and clerks as they may from time to time require. In the large districts clerks are frequently drawn from among those who have spent some years in the office of a law agent, where they have acquired a legal training, while some may have served regular apprenticeships under indenture, and qualified as law agents. When vacancies occur in the office of depute, it is usually filled by a clerk who has for some years served as such either in the same or in another district. Sometimes the depute is a qualified law agent, and sometimes not. There is no rule and no general practice. In any case, he must have an extensive knowledge of criminal law and procedure, and possess qualities of decision of character, which are peculiarly called for in view of the responsible and delicate nature of the work he is called on to perform. Both deputes and clerks are engaged by each Procurator Fiscal under an ordinary contract of service, which may be terminated on either side on notice, which in no case is probably more than three months. No doubt a depute, before he can act as such, must have his appointment approved of by the Lord Advocate, which approval must be renewed yearly; but there is no contract between the Lord Advocate, as acting on behalf of the Crown, and the

depute. The appointment of clerks does not require “ any such approval.”

58,762. What are the points which you wish to put before us, with reference to deputes?—The points are that we ought to be placed upon an established Civil Service, that our rates of remuneration ought to be fixed by the Treasury or the Exchequer, that our appointments ought to be held under the established Civil Service, that we ought to be promoted according to seniority, and raised from lower posts to higher posts, and that we ought to have pensions.

58,763. That may be summarised, as first, security of tenure; second, pensions; and third, a regular system of promotion?—Yes.

58,764. Does that cover the whole ground?—It does.

58,765. First, as regards fixity of tenure, when there is a change in the office of the Procurators Fiscal, are the deputes ever changed, too?—Certainly, there have been cases where deputes have been promoted to the office of Procurator Fiscal.

58,766. That was not precisely my point; where a new Procurator Fiscal is appointed, does he always continue the same deputes, or does he ever make a change and bring in his own man?—In my experience he retains the depute whom he finds in the office.

58,767. The point is whether the fixity of tenure is a theoretical or a practical point; have you, in fact, suffered from want of fixity of tenure?—I cannot say we have. I am bound to say that when a new Procurator Fiscal comes into the office, in all cases of which I know, he has retained in his service the deputes whom he found in office. That is my experience.

58,768. You have not heard of any cases of arbitrary dismissal?—I have not.

58,769. The second point is as regards pensions; you wish to be made pensionable?—Yes.

58,770. That applies specially to the whole-time staff?—Yes.

58,771. The ordinary Civil Service pensions would not apply to half-time service?—I see considerable difficulties in applying it so.

58,772. At what age do deputes generally become appointed?—I am afraid there is no age.

58,773. The Civil Service system of pensions is not very applicable where appointments are made rather late in life, but is only suitable when the men are appointed young; would it be the case that the deputes are appointed sufficiently young for the Civil Service system to be suitable?—I think in most cases they are, and it would be so, if an established Civil Service were constituted. If they were brought under the established system at a comparatively early age, say 20, they would begin as clerks, and then work up and be appointed deputes as vacancies occurred.

58,774. Are deputes ever promoted to be Procurators Fiscal?—There is a number of cases where they have, more especially recently. There have been a few in recent years.

58,775. That would form part of the regular system of promotion for which you ask?—Yes.

58,776. You ask that the door of promotion to the Procurator Fiscalship should be open?—Yes.

58,777. Do you also include in the system of promotion, promotion by transfer to different places?—Yes, we would like to see that.

58,778. The deputes of different places are remunerated by varying salaries?—They are.

58,779. A depute with a small salary might get promotion to the place of a depute at a larger salary?—Yes.

58,780. In working a system of that kind, would men be willing to move about freely for the purpose of getting promotion?—I think they would.

58,781. The suggestion has been made that the expense of removal and the difficulty of finding house accommodation, especially for a man with a family, would form obstacles to a system of that kind?—I answer that in this way, that I think they might get the opportunity of transferring to another place.

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[Continued.]

58,782. They could then weigh for themselves the advantages or disadvantages?—Yes.

58,783. Do you anticipate that, as a rule, men would be prepared to move?—Yes, I do. Speaking for myself I can say that at any time in the last 25 years I would have been ready to move from one place to another.

58,784. Would the experience gained in one place be equally valuable at another?—Undoubtedly. Of course, the larger the district in which the depute is serving, the more experience he would gain.

58,785. The promotion would usually be by transfer from a smaller or less important place to a larger and more important place?—Yes.

58,786. It is suggested that the experience gained in a small place would not qualify a man for the work in much larger and busier places?—That is a matter of degree. There are certainly places where experience as a depute would mean very little, and would not be of much use to a man coming to a large district.

58,787. But from a middle-sized to a larger district, the experience would be valuable?—Yes.

58,788. It has also been suggested that the experience that a Procurator Fiscal or Depute has acquired has its value largely from the knowledge of persons and individuals, local habits and so forth that he gains, and that that particular kind of experience would be lost or become valueless; what do you say to that?—I don't think so. That is not the case.

58,789. You mean that particular kind of experience is not of value?—I don't think it is.

58,790. Is knowledge of individuals in a district not valuable for the work?—I don't think so—not in carrying out the official duties of Procurator Fiscal.

58,791. You mention in the paper you submitted to us the question of joining contiguous districts under one Procurator Fiscal; if that were done, would there be deputies in charge of sections of the enlarged district?—That, I know, is the proposal under the amalgamation scheme, but if I am to be allowed to say so, we are not supporters of the amalgamation scheme.

58,792. As regards salaries, what is your representation?—At present, the work in the office of a Procurator Fiscal is "farmed" out to the Procurator Fiscal. He and he alone is responsible to the Crown for the proper discharge of the duties. He is paid a lump sum which the Treasury, that is the Exchequer, considers sufficient to cover his remuneration and that of the staff; but the Crown has no responsibility for the conditions under which he employs his staff, and exercises no control over the number whom he employs, or the salaries he pays to them. He is left to employ such staff as he may consider necessary, and to make his own arrangements with them regarding salaries. In a few districts, the personal remuneration of the Procurators Fiscal is fixed by the Exchequer, and in addition he is paid a separate allowance for deputies and clerks, but he is left to divide this allowance among his staff in any way he can arrange. While this is no doubt economical to the State, the system of remuneration in both cases is unsatisfactory from the point of view of the staff. Obviously, it leaves no room for a system of periodical increments to the salaries of deputies and clerks. We ask that the Treasury should adjust the salaries of whole-time deputies and clerks upon scales which fix amount and increment, and that, in all cases, payment of these should be made direct.

58,793. In that case, by whom do you suggest the payment should be made?—By the Crown, the Lord Advocate.

58,794. Do you apply that to the clerks as well as to the deputies?—Yes, I suggest the clerks might be chosen by the Procurators Fiscal, and after a period of probation they might submit themselves to some kind of examination. After having qualified in that way, they ought to receive their appointment from the Crown.

58,795-6. Do you suggest that the deputies should as a rule be appointed by selection from among the clerks?—Yes, wherever possible.

58,797. It would only be when there was not a suitable person among the clerks that the appointment should be made from outside?—That is so.

58,798. Do you apply that same principle to the appointment of Procurators Fiscal?—Yes.

58,799. That is, if a fully qualified depute is available he would be appointed in preference to an outsider?—Yes. What we recommend would be that the Crown Agent should keep a list of deputies and clerks belonging to the established service, that the work of these deputies and clerks should be reported on from time to time, either by the Procurator Fiscal, under whom they work, or by the Sheriff or Sheriff Substitute, with whom they are often brought into personal contact, and that, on vacancies occurring, the claims of those on the list should be first considered, those on the list thereby having the satisfaction of knowing that, before the appointments are made, their claims had received some consideration.

58,800. (*Mr. Graham Wallas.*) If a new man is introduced into the Procurator Fiscal's staff, is he generally introduced at the bottom?—Not always. Assuming a depute is wanted, and the clerks on the staff are not able to supply one from among themselves, in that case a depute would be taken from outside.

58,801. Have you heard of cases where a depute was taken from outside, a relation of the Procurator Fiscal, or someone like that, and given a large proportion of the sum allowed for salaries?—I do not know of any such case. (*Mr. Giles.*) In Glasgow there are five clerks, some of them quite fit for the additional duties of depute, yet an outside man has been taken on.

58,802. (*To Mr. Giles.*) Is there any obvious reason for that; any relationship to the Procurator Fiscal?—No relationship whatever.

58,803. Is there no other obvious fact that would explain his appointment?—Not within my knowledge.

58,804. (*To Mr. Yeates.*) Have you ever heard of any such appointment?—No.

58,805. (*To Mr. Horn.*) Is it the usual practice for the Procurator Fiscal to be given a lump sum first to pay his own salary, and then those of the clerks, or to get a salary for himself and a sum to divide among the clerks and deputies?—Of the fifty Procurators Fiscal in Scotland, only two of them get their salaries allotted to themselves personally. In these two cases the sum paid by the Exchequer is divided; that is to say, the amount payable to the Procurator Fiscal personally is separate, and then there is a lump sum divided among the deputies and clerks as their remuneration.

58,806. There are only two cases where the Procurator Fiscal does not pay the clerks and deputies off a sum, and keep the rest himself?—That is so. In forty-eight cases he does that. He gets a lump sum, pays his clerks and deputies out of it, and what remains is his remuneration.

58,807. Is it in his own discretion how much he pays these deputies?—Wholly.

58,808. (*Sir John Kempe.*) You say a vacancy for a depute is usually filled by a clerk with experience?—Yes.

58,809. Sometimes he is a qualified law agent and sometimes not?—That is so.

58,810. You would not tie it down to qualified law agents; if a man has served well as a clerk, although he is not a law agent, is that sufficient?—Yes, I think the experience obtained in five or ten years' service as clerk in a Procurator Fiscal's office is quite as good as passing the Law Agents examination. The special knowledge which he gets in the office is such as he gets nowhere else.

58,811. The clerks are appointed deputies wherever possible?—Yes.

58,812. Where a man is brought in, is it because there is no man properly qualified in the office?—The man who is inside, if he is found fit, gets the post.

58,813. Speaking generally?—Yes, generally.

58,814. It is already done; but you wish a rule laid down to make it more definite?—That is so.

58,815. (*Mr. Boutwood.*) I gather from what you said to the Chairman, you are not in favour of the amalgamation scheme?—No.

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[Continued.]

58,816. Why not?—Under the present system each Procurator Fiscal is personally responsible to the Lord Advocate, through the Crown Office, for the way in which he performs his duties in his own county or district. When in any difficulty he can, and often does, obtain from the Crown Office the directions of Crown counsel, and, so far as I know, this system works well in practice. The proposal to conjoin a number of already large districts or counties under one Procurator Fiscal would, we believe, lead to unnecessary responsibility and waste of time. What is wanted in each district is a responsible official to act at once on the spot, and, if experienced men are appointed in each district, they ought to be quite competent to deal with any ordinary duty. Many things with which they have to deal are urgent, and it would be impracticable in many cases to obtain the advice of what I might call the senior Procurator Fiscal over the district. The depute might at a particular moment be faced with a question of applying for a warrant to apprehend, and it might lead to disastrous results if he could not apply, but had to wait to consult his senior, who might be 40 or 50 miles distant.

58,817. There is considerable weight of authority behind the proposal that the number of Sheriff Clerks should be brought down to 15; could you put in a sentence or two what seems to you to be the cardinal difference between the Sheriff Clerk's establishment and the Procurator Fiscal's establishment?—I think the Procurator Fiscal's duties are more urgent.

58,818. That is the point; you want him on the spot more than in the case of the Sheriff Clerk?—Yes.

58,819. (*Lord Dundas.*) How many Depute Procurators Fiscal are there in Scotland?—I should say there is one in each district, but in several of the districts there are more than one.

58,820. Would you say there are, roughly, 50?—Roughly, between 50 and 60.

58,821. That is good enough; how many clerks will there be in the Fiscals' offices in Scotland?—I cannot tell you. (*Mr. Yeates.*) In my own case, Dumbarton, the depute acts as clerk.

58,822. (*To Mr. Yeates.*) The number of clerks would not be very large?—Excepting Glasgow and Edinburgh, I should think there would be very few.

58,823. (*To Mr. Horn.*) Is it your view that all the Depute Procurators Fiscal should be put on a Civil Service basis?—Of course that raises a practical difficulty.

58,824. I know?—I quite see it. I am aware of it. It is in the smaller places that the difficulty lies. In many of these smaller places the depute is not paid at all, but merely holds an honorary appointment. He is the personal friend of the Procurator Fiscal, and agrees to act for him in cases where the Procurator Fiscal cannot act himself. That system prevails in many of the smaller districts in Scotland.

58,825. In your view should all the deputes and clerks get pensions?—All the whole-time deputes and clerks.

58,826. You say all the whole-time deputes?—Yes.

58,827. In speaking of putting whole-time deputes on a Civil Service basis, is pension what is really aimed at?—Yes, and that the scales of remuneration should approach more nearly to Civil Service scales.

58,828. That is what you mean when you talk of putting them on a Civil Service basis?—Rather better

remuneration and pensions, also better chances of promotion.

58,829. You say also better chances of promotion. Is there anything now to prevent people moving from place to place if they wish it, and if the superior person in the other place wanted them to do so?—No; but at the present time, there is no system of letting the vacancies be known.

58,830. You want to advertise them?—Yes, and that is provided by the proposed list of deputes and clerks kept by the Crown Agent.

58,831. That would meet your point?—Yes.

58,832. Therefore, the idea of a Civil Service basis, which sometimes puzzles my imagination, really amounts to rather better remuneration and a pension of some sort?—Yes.

58,833. Have your bodies or associations thought out how that basis should be accomplished if the authorities were willing to do so?—Do you mean the pension scheme?

58,834. Yes, and the better remuneration?—I am afraid we have not attempted to work it out.

58,835. I am not blaming you, but you have not attempted it?—No, mainly because of the difficulty connected with those who are not whole-time officers.

58,836. There may be difficulties, but these are the directions in which your aspirations go?—Yes.

58,837. (*Sir George Paul.*) How many whole-time deputes do you think there are?—So far as I can make out at the present time there are only from 12 to 15.

58,838. (*Chairman.*) (*To Mr. Yeates.*) Have you anything to add?—No, our position is pretty well covered in the memorial. (*Mr. Giles.*) You put a question as to moving from a small district to a larger one being an advantage. I think it is an advantage. For many years I was in Dundee, and removed to Glasgow and found it an advantage.

58,839. Otherwise than as regards salary?—As regards salary it was also an advantage.

58,840. Was it an advantage apart from salary?—It was an advantage also from experience.

58,841. Did you find your experience in Dundee was sufficient?—It fitted me for Glasgow. But for that experience I could not have taken the Glasgow post. Permit me to voice the position of the clerks in Glasgow. They are in a somewhat different position from the clerks in the other districts.

58,842. How many are there?—There are five at present. The work in Glasgow is about a third of the whole of the work in Scotland in criminal cases. It is heavy and embraces all classes of crime, statutory and otherwise. It is impossible for the Procurator Fiscal himself to do everything. Certain work, and some very responsible work, is put on the clerks. They have to do that, and work it out, using their brain and making the best of what they have. Certainly it is submitted to the Procurator Fiscal, and after it has passed him, it goes to the Crown Office. Accordingly their claim is entitled to some consideration.

58,843. Is their claim the same as yours?—No, we deputes in Glasgow have no grievance so far as salaries are concerned. The clerks have a grievance that they are underpaid, and are not paid commensurate with the duties they perform. There is a memorial they have made out. I do not know whether you will receive it or not.

58,844. I will look at it?—They desire me to put it in, and as their representative and as depute in Glasgow, I do so.

Mr. JOHN TOLMIE and Mr. ANDREW L. BORTHWICK, called and examined.

58,845. (*Chairman.*) (*To Mr. Tolmie.*) You are an engrossing clerk in the Register of Deeds?—Yes.

58,846. How long have you been at that work?—I went into the Register of Deeds in 1884, but for seven years prior to that I was in the Sasine Office.

58,847. (*To Mr. Borthwick.*) You are also an engrosser in the Register of Deeds?—Yes.

58,848. (*To Mr. Tolmie.*) We have before us the statement you sent in. From it I see you are paid by piecework at the rate of 6d. per page of 200 words for

recording, and 8d. per sheet of 250 for extracts?—That is so.

58,849. How long have these rates been in existence? They have been in use for some years. In the case of the Record they were framed 100 years ago, and in the case of Extracts, 40 years ago.

58,850. Are the same rates paid in the Register of Sasines?—Yes, practically the same. We are paid by the sheet, but in the Extracts they are paid by the page.

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[Continued.]

58,851. Does it come to the same thing?—Not at all.

58,852. Which is the better?—Payment by the sheet.

58,853. You are better off by being paid by the sheet?—Yes.

58,854. What is the rate in the Sasine Office?—In the Sasine Office the clerks are paid 6½d. per page.

58,855. (*Lord Dundas.*) Why is it better to be paid by the sheet than by the page?—If a deed is six sheets and 20 words over, that is counted seven sheets.

58,856. In the other case it would be only one extra page?—Yes.

58,857. A sheet is two pages?—Yes.

58,858. (*Chairman.*) Was the additional ½d. to the engrossers in the Sasine Office added as a result of the Committee's decision?—Yes.

58,859. That was in respect of the certificates on deeds?—Yes.

58,860. Have you any complaint to make about the rates you are paid?—We would like to get something in the way of sick pay and holiday pay, because when we are laid up it is at our own expense, and when we are on holiday it is also at our own expense.

58,861. Have you any mutual arrangement for providing holidays or sick pay?—No.

58,862. Have you thought of instituting an arrangement of that kind?—No, the office is so small.

58,863. How many are in it?—20 altogether, four of whom are with the forces.

58,864. In another office of the same kind, of which we have information, an arrangement is in force under which, if a man is away sick, a certain amount of work is done for him by those still at work, and he thus receives a certain amount of sick pay?—That would not work in our place.

58,865. Why not?—There are so few of us.

58,866. There would be fewer away sick?—It has never been mooted in our place. We never heard of that before. (*Mr. Borthwick.*) There are so many clerks in our department making small salaries.

58,867. (*Chairman.*) What do you consider a fair average amount to earn?—We range from about 8l. or 9l. a month up to 17l. or 18l. by fast writers. Very few draw anything like the latter figures. Mr. Tolmie is about the only one who draws 17l. or 18l.

58,868. (*To Mr. Tolmie.*) Are you a fast writer?—Yes.

58,869. What do you earn?—220l. a year. (*Mr. Borthwick.*) None of the other clerks approaches anything like that, and it is only by working excessive hours that Mr. Tolmie is able to make it.

58,870. (*To Mr. Tolmie.*) How many hours do you work?—From about 9.30 till about 6 without any break.

58,871. Eight and a half hours?—Yes.

58,872. All the year round?—Yes, except when I am on holiday.

58,873. How long holidays do you take?—An average of three weeks. (*Mr. Borthwick.*) We are compelled to take three weeks.

58,874. (*To Mr. Tolmie.*) You have no system of pensions?—None whatever.

58,875. Is that one of the things you ask?—Yes, we are very keen about that. (*Mr. Borthwick.*) As the clerks get older their incomes decrease, and they are not able to provide anything for their old age. The continuous strain of the work comes very hard on the older men. (*Mr. Tolmie.*) Our Keeper characterises the work as "white slavery."

58,876. You have a Government gratuity on retirement?—Yes, that is the only thing. (*Mr. Borthwick.*)

That is after 15 years' service. It is about 2l. 5s. for every year you have been in the service.

58,877. (*To Mr. Tolmie.*) The point you specially put forward is that you would like a system of pensions and some arrangement for sick leave and holidays?—Yes.

58,878. (*Sir George Paul.*) The trouble in your department is that, when you are young, there is great enticement to go in, because you are vigorous and can write fast?—Yes.

58,879. But when you get old you write slow and make less money?—Yes.

58,880. It is a diminishing income?—It can never be an increasing income, because we have to write legibly, correctly, and well.

58,881. You have to copy into the register and then copy the extracts?—Yes. (*Mr. Borthwick.*) Some of the work is holograph wills, difficult to decipher, and sometimes a great deal of time is wasted, and some days we do not make much on that account.

58,882. Do you get anything for collation?—The last keeper was very good to us, and gave a little extra for the difficulty we had in ciphering the words.

58,883. (*Chairman.*) You misunderstand the question; do you receive any payment for collation?—No.

58,884. (*Sir George Paul.*) (*To Mr. Tolmie.*) Yours is not like the Sasine Office.—No.

58,885. A half page counts as a whole page, and you can make something that way?—Half a page sometimes counts as a sheet—250 words to each sheet.

58,886. The engrossers in the Sasine Office have a sick society?—Yes.

58,887. Have you never thought of joining that big body?—We tried, but they would not allow us.

58,888. Would they not?—No. (*Mr. Borthwick.*) The two offices believe in keeping to themselves. (*Mr. Tolmie.*) That is a distinctive part.

58,889. (*Sir George Paul.*) You are not antagonistic to each other?—No.

58,890. But they did not see their way to allow you to join?—No.

58,891. (*Mr. Graham Wallas.*) You know it would not be in accordance with precedents for the Government at once to admit men of middle age to rights to full pensions in respect of back services?—I understand that.

58,892. How old are you?—55 years of age.

58,893. You would hardly expect to get at the age of 65 a pension representing two-thirds of your present earnings?—I think I saw something in the first report of the Civil Service Commission to the effect that clerks who have been permanent for a great many years would be put on an establishment.

58,894. But, if you remember also, they would be put on an establishment with certain diminished pension rights, allowing certain amounts for their past service, but not the whole of it?—We would take what we could get.

58,895. Have you ever thought whether you would fall in with a scheme which would be contributory, the Government allowing a certain amount to meet what was given by you?—We would be very glad to see anything of that kind. (*Mr. Borthwick.*) In the case of extracts, more often than otherwise, we have "bad jobs." A "bad job" means that you write down to the foot of an even page, perhaps over to the next page, with the extracting docket and stamp docket, and backing-up. We do not get any payment for these items, and it means a loss of 8d. In a "good job" it must go about half-way down the odd page, and that covers the backing.

58,896. How do you mean you lose 8d.?—It is time spent in backing-up and stitching.

ONE HUNDRED AND FORTIETH DAY.

Friday, 11th June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

The Hon. LORD DUNDAS.
 SIR DONALD MACALISTER, K.C.B.
 SIR JOHN ARROW KEMPE, K.C.B.
 SIR GEORGE MORISON PAUL.
 MR. ARTHUR BOUTWOOD.

MR. JOHN ROBERT CLYNES, M.P.
 MR. PERCY EWING MATHESON.
 MR. ARTHUR EVERETT SHIPLEY, F.R.S.
 MR. GRAHAM WALLAS.
 MISS HALDANE.

MR. E. W. H. MILLAR (*Secretary*).

The Hon. LORD SALVESEN, called and examined.

58,897. (*Chairman*.) Will you be good enough to tell us what legal offices you have held?—I became a member of the Scottish Bar in 1880, and took silk in 1899. In 1900 I was appointed Sheriff of the Border counties of Roxburgh, Berwick, and Selkirk. I was appointed Solicitor-General for Scotland in February 1905, and six months later I became a member of the Bench of the Court of Session. I served for about five years in the Outer House, then for a year in the First Division. Since then I have been sitting in the Second Division.

58,898. You were also Chairman of the Departmental Committee on Minor Legal Appointments in Scotland?—Yes. We heard a great deal of evidence on Minor Legal Appointments, and I signed the Majority Report. There were two Minority Reports, but the two gentlemen, Sir William Haldane and Mr. MacGregor Mitchell, who signed the First Minority Report also signed the Majority Report, merely differing from us on some more or less unimportant details. The only real dissent was that of Mr. Watt, a Member of Parliament for Glasgow, who took a very comprehensive view of the situation, and apparently was very much enamoured of uniformity, which we thought was impossible to apply to offices so varied as these with which we were dealing.

58,899. The Commission have before them the Report of your Committee, and also the evidence?—Yes.

58,900. The legal offices which are at present being examined by the Commission include all those which were examined by your Lordship's Committee, and also certain others, such as the Sheriff Clerks, the Procurators Fiscal, and their staffs, and the Register House Departments, which are not included in your report?—Yes.

58,901. Dealing first with the question of appointment, we have learned that except in the Register House Department, the appointment is, generally speaking, by nomination; in some cases the appointments are Crown appointments, in which event the nomination is in fact and in practice made by the Lord Advocate?—Yes, so I understand.

58,902. We have had evidence from various witnesses as to the extent to which political considerations enter into these appointments; we should be glad to have your views upon that aspect of the matter?—I think that whatever theoretical objections there are to political appointments, and, of course, they can be stated very forcibly, hitherto they have not worked badly in Scotland. I account for that by the fact that there is always a sufficient number of qualified persons on each side of politics from which to make a selection. I have not myself ever exercised any patronage, and can, therefore, speak in quite an unbiassed way. I think the profession are very keen critics of appointments, and that the safeguard that the person appointed will be duly qualified lies to a large extent in that fact, and in the desire of the Lord Advocate of the day to maintain his professional reputation. The Lord Advocate comes in contact very closely with his brethren at the Bar, and anything in the nature of an unsuitable appointment he would hear a great deal about, and be made rather unhappy over it. I think that prevents the appointments being

otherwise than extremely well made, on the whole. I cannot myself recall any really bad appointment. Perhaps there have been one or two persons who turned out most disappointingly after they had been appointed. That happens, I should say, with every form of appointment, but, on the whole, I should say the system in Scotland has worked extremely well. Sometimes it may be that when a particular party has been very long in power, there may be persons on the opposite side of politics who do not get appointments, and who would be better qualified for them than any person who is in the other camp. That happens, I should say, more in the higher appointments than in the case of those with which you are dealing.

58,903. Which appointments do you mean by "higher appointments"?—I mean the judicial appointments, for instance, whether to the Supreme or Inferior Courts. You may gradually exhaust all the most suitable men of one party, if a particular party has been very long in power, but, on the principle of the parties being in power for approximately equal periods over a considerable stretch of time, I think you would always get good appointments.

58,904. Assuming that to be the case, and assuming that the appointments made on that system can always be good, is it not, nevertheless, undesirable for the profession in general that that should be the only road to official preferment?—I think so. I think that as much as possible, in the case of these minor appointments with which you are dealing, that there should be appointments made from within. But I do not think it is possible with the large number of appointments and the small number of people who are capable of being promoted, that you can get rid of outside appointments altogether.

58,905. Your answer on that point appears to me to assume that outside appointments and political appointments are absolutely synonymous; is that necessarily the case?—I think you may say it is nearly always the case.

58,906. You are aware that in the past postmaster-ships, and more recently still sub-postmaster-ships, were to a large extent political appointments, made, as a rule, on the recommendation of the member for the constituency in which the vacancy occurred?—Yes.

58,907. That system has now, I believe, entirely ceased. Postmaster-ships are appointments in the regular service which are filled from below?—Yes.

58,908. Sub-postmaster-ships are still given to persons from outside the service, but not on a political basis; do you conceive it possible that a similar change might take place in regard to legal appointments?—I do not know what alternative there can be, or in whom the power of appointment could be vested.

58,909. Is it impossible, if the appointment remains in the hands of a Minister, that he should act upon the principle of selecting the person best fitted, irrespective of his politics?—If he can disassociate himself entirely from politics, it would be much better. The difficulty is to assume that any person, who is in a position, which he has attained through politics, would not naturally have a bias in favour of the people with whom he had been most associated, and, as between two equally qualified persons, that he should not prefer

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the one of his own way of thinking in political matters. For instance, if you vested the appointment, say, in the President of the Court of Session, while he has disassociated himself entirely from politics, I think it would be difficult to say he has entirely got rid of his political views, or that he has not got a political bias. At the same time, of course, there would not be in that case the same amount of wire-pulling as there would be, perhaps, in the case of a Minister of the Crown.

58,910. Have you considered the effect which the system of outside appointment has upon the Service itself and the junior officers in the Service?—Yes.

58,911. From the expression of opinion on that point contained in the Report of your Committee, I gather you think that is detrimental to the lower grades of the Service?—I think it is, and the only drastic proposal that we made involved the abolition of 19 of the Sheriff Clerks, who are appointed by the Lord Advocate or the Secretary for Scotland, and the substitution of depute clerks, who would be promoted from below and might pass from one Sheriff Court, where there was little to do, to others where there was more and where they would get higher pay. We went, therefore, carefully into that matter. That part of the report was drafted by Sheriff Maconochie, who has had much experience in Sheriff Court work. I considered it carefully at the time, and I thought it seemed to offer the best way of dealing with the Sheriff Clerks, who cannot be dealt with on any uniform system.

58,912. You also made recommendations, tending in the same direction, with regard to the offices in the Court of Session?—Yes, but there the staff is so small that you really cannot get a sufficient number to promote, because the people who have purely clerical work are not fit for the offices of, say, Clerk of Court or Assistant Clerk of Court.

58,913. You would not include among the posts requiring purely clerical knowledge the clerks in the Bill Chamber or the Extractor's Office?—Not the Assistant Extractor or the junior clerks in the Bill Chamber, but, in the Extractor's Office, there are a few clerks who require nothing but good penmanship.

58,914. Are they purely engrossers?—Yes, and they are not capable of a higher appointment.

58,915. They are naturally on a different basis?—Yes.

58,916. In your recommendation in regard to the Court of Session this sentence occurred: "In order to minimise the number of political appointments, which were considered inexpedient in the case of minor officials, amongst whom we do not include the heads of departments . . ." Is that to be understood as meaning that you did not consider political appointments undesirable in the case of heads of departments?—I should certainly always prefer, if you can get a good man promoted from below, that he should have the first opportunity of getting these appointments. The practical way which I thought it might work out was this: We have, for instance, in the Outer House, four clerks and four assistant clerks. In the Inner House we have two clerks and two assistants. I am not speaking now of the principal clerk, whose appointment I think should generally be from outside. If it were necessary to make an appointment from outside, I think it would be better to make it to the assistant clerkship, and let the assistant clerk, if he were qualified otherwise, be promoted to be Clerk of Court. I say so for two reasons, first because very often the assistant clerk, who has had the experience and has the qualifications, may have to train his master for a period, before that master is fit to do the work, although the master is getting a much higher salary than he is receiving; and again, because it does not encourage men in that position to do their best, if they are always passed over when the Clerk of Court dies and the Lord Advocate appoints his own clerk to that position.

58,917. You made a reservation in your recommendations in favour of the Lord Advocate's clerk?—Yes.

58,918. What was the ground of that reservation?—I think it is almost necessary that a Lord Advocate's clerk should have the chance of being put into some

appointment, when he practically loses his living on the Lord Advocate going on the Bench, as, in ordinary course, he does. The Lord Advocate's clerk has the qualifications necessary for these appointments in virtue of the position and experience he has had.

58,919. Do you think he is always a suitable person from the experience that he has had?—I think I may say he has had the necessary training for becoming a Clerk of Court.

58,920. (*Lord Dundas.*) Do you mean you would put him in as assistant and allow him to become a Depute Clerk in his turn?—Yes, that is what should be done in the interests of the Service. I think he ought not to be appointed to the principal clerkship so long as there is an assistant clerk qualified for the office, but that he ought to be given an assistant clerkship to provide for him when he loses his livelihood.

58,921. (*Chairman.*) Fitness for the post would depend on his personal qualifications as well as his professional experience?—He has always been associated for a long time with the Parliament House. That can be taken for granted. Therefore he has come in contact with a great deal of procedure and has made himself more or less acquainted with the procedure.

58,922. (*Sir George Paul.*) The fact that he has been the Lord Advocate's clerk is sufficient in itself for the appointment?—If he had not been the Lord Advocate's clerk for years before, probably not, but, as a rule, the Lord Advocate's clerk is a person who has been his clerk for many years, and has been employed in matters which necessarily involve a certain knowledge of procedure. I should think also, for the most part, he has some legal qualifications, having been either trained in a solicitor's office or being actually a passed law agent.

58,923. (*Chairman.*) You recommended that certain qualifications should be required of future entrants, as regards examinations that they should pass. Was it the intention that they should pass the Law Agents examination, or some examination for legal attainments?—Yes.

58,924. Was it the intention that that condition should apply to the Lord Advocate's clerk?—No, I do not think it was. I think we really recommended that the Lord Advocate's clerk might also be regarded as eligible because of the inveterate custom to appoint him to some office when the Lord Advocate has a chance of providing for him. I do not think it has been found in the past that such appointments have been any worse than other appointments. You may take it that the man is generally sufficiently qualified for the position of Assistant Clerk of Court.

58,925. Does that also apply to judges' clerks?—I think judges' clerks very seldom get any promotion. I have never heard of them being promoted.

58,926. In your report you made a reservation in favour of judges' clerks as well as the clerk to the Lord Advocate?—It so happens that, as a rule, they possess the same qualifications as the Lord Advocate's clerk, sometimes higher qualifications.

58,927. Would they in many cases pass such examinations as you have specified?—Yes. For instance, my own clerk is a law agent, and a very qualified person. The fact is that the judges' clerks are drawn upon as a reserve in case of illness of the Clerks of Court. We have the minimum staff in the Court of Session at present, and things are likely to be thrown out of gear by the illness of one or two officials. It has been found in such cases that the judges' clerks, who have not a great deal to do, are quite able to take their place, and to form the necessary reserve. I might give you an illustration of how we have to interchange the officials in the different courts, because of our being run upon a minimum basis. In the Second Division we have two clerks. Both are in attendance between 10 and 1 o'clock. After 1 o'clock one of them requires to go down to the Register House to give out processes and allow agents to copy interlocutors and such like. If a judge of the Second Division is sitting taking evidence in a separate court, as not infrequently happens where we have allowed additional proof, then there is no clerk available for him to look after the process, which may sometimes be a process running into hundreds of

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numbers, and which must be made available at any moment to the witnesses. In a case like that we had to borrow one of the clerks of the First Division. It so happened Mr. Adam, who is the principal clerk, took his place, and we were able to get Mr. Paton; but if a judge of the First Division had been sitting taking a proof, or otherwise engaged in one of the courts, such as, say, the Valuation Court, or some of the courts that are occasionally held, it would have been impossible to get the necessary official. In such a case we should have probably have had recourse to my own clerk to do the work. I am not complaining in the least that we are under-staffed, because under normal conditions I think we have just enough to do the work properly, and no more. We have no reserve unless we draw on the judges' clerks in an occasional emergency.

58,928. You told us that the appointments, speaking generally, are in the hands of the Lord Advocate?—Yes.

58,929. Do you consider it the right system, that these appointments should be made by him?—Personally, I am not enamoured of political appointments (I have no experience of making them), but the difficulty is to suggest some better system. If you had the President of the Court, I think that that, theoretically, would be better. On the other hand, the President might hold office for many years, and, perhaps, his political bias might be such as not to enable him to do justice to the merits of those who had been formerly opposed to him.

58,930. Has he not abandoned his political bias as soon as he reaches the Bench?—Well, it is sometimes revived, as one knows, when a President is promoted to the House of Lords and takes an active part in the proceedings of that assembly. I do not think politics ever cease to be more or less part of a man's nature, when he has been active in them.

58,931. (*Sir George Paul.*) So you are up against a wall; if you do not have the Lord Advocate there is nobody?—I am just indicating that, while I think the President would be the better of the two, there are disadvantages attached to him, which do not attach to the nomination of the Lord Advocate, who might hold office only for a few years, when a member of the other party might come into power and have the appointments.

58,932. (*Chairman.*) The suggestion has been made that the appointing authority should be assisted by a permanent and impartial committee, who would examine the merits of candidates, and report to the appointing authority, the ultimate appointment being made by the latter?—I am not in favour of that. It would divide the responsibility. You would not be able to charge any individual with the responsibility of a bad appointment. There would be nobody to whom the committee would answer.

58,933. The responsibility would rest with the Minister who would be responsible to Parliament for the appointment, but he would naturally have to justify his action if he acted against the recommendation of the committee?—It seems to me it is like the judge and jury. It would be very hard to make a judge responsible for the verdict of a jury with which he entirely disagreed, so, in the same way, with a committee. If you have an appointment vested in half a dozen people, you do not have each of them applying their minds to the question, nor is there a sense of individual responsibility. Besides, our country is really so small, and our appointments so few, that the Lord Advocate, as the person who has more local knowledge than any member of committee could have, has better means of judging of the qualifications of a candidate. I say the same, of course, in regard to the Lord President, who would have an equally good knowledge. Members of the legal profession are more or less known to each other, at all events, by repute.

58,934. (*Sir George Paul.*) You say the Lord Advocate has every means of acquiring knowledge of the qualifications of candidates, but does it not come to this, that the usual practice has been that he always appoints his own clerk?—Yes, that is for the reason that it is the inveterate custom that he ought to make

some provision for the man who has served him faithfully.

58,935. That is independent of the qualifications of the outside world?—Yes. I do not think a clerk is chosen because he is the best man. At the same time, he is generally a perfectly qualified man.

58,936. That is really an appointment which the Lord Advocate's clerk always gets?—If there is always a Lord Advocate's clerk to appoint.

58,937. (*Chairman.*) You have no suggestion to make as to alterations in the method of appointment?—No, I do not think the idea of the committee would be a good one. I think the appointments should be made by one person who should be responsible for them to the profession. I do think the prestige of the Lord Advocate is always very seriously affected, if he makes a bad appointment. He is really subject to the public opinion, of the profession, and that controls the appointment. He may not choose the best man, because he may be on the other side of politics, but he will choose a reasonably good man for the public service.

58,938. The public opinion of the profession is exercised as a means of preventing bad appointments, but not necessarily of securing the best appointments?—That is so.

58,939. (*Sir George Paul.*) So the selection may be a reasonably good one, without being the best?—Yes.

58,940. A very good Parliament House clerk might be found who would be better than a Lord Advocate's clerk?—Yes.

58,941. (*Sir Donald MacAlister.*) The new Advocate has to select another clerk?—Yes.

58,942. In a year or two he has to give that clerk an appointment after he has only served a short time?—He may, but that clerk has not the same claim on him.

58,943. But is he usually appointed?—I have no knowledge of that.

58,944. (*Lord Dundas.*) I do not think we have any such knowledge of that in this Commission?—I may say to a certain extent the Report for which I was partly responsible proceeded along the lines of least resistance with a view to securing what we thought necessary reform, without running up against too many sharp corners.

58,945. (*Chairman.*) Your Report recommended certain legal qualifications for these offices. You consider that qualifications of that nature are very desirable?—I think they are essential. With regard to all the appointments which I think you are dealing with here, I think legal qualifications are essential. It is no use a man being a good classic or a good mathematician or anything of that sort, but the important thing is that he should know about Scotch law and procedure. He may be a great ass in every other respect, but if he is thoroughly qualified as regards Scotch law and procedure he is the man to appoint.

58,946. You think that certain qualifications in these respects ought to be acquired before he enters the office. You think it is not convenient that his knowledge should be entirely acquired by practice in the office?—I do not think a man could get a good knowledge of law unless he attended classes at the University, or was in a solicitor's office and came in contact with it in that way.

58,947. Would it be correct to say that the general effect of your Report was that the offices most directly connected with the Court of Session, namely, the Clerks of Court, the Extractor's Office—to which the work of the keeper of the minute book was to be attached—and the Bill Chamber should be brought closer together in the sense that there should be a larger practice of interchange and promotion between those different branches than there is at present, and that they should be more directly under the control of the Principal Clerk of Session than they are at present?—Yes. I may say, however, that I think you will more easily get a qualified man, for instance, for an assistant clerkship of Court than for the post of assistant extractor or assistant clerk in the Bill Chamber. I think that at all events for the position of assistant clerk in the Bill Chamber you require higher qualifications than for any of these other

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appointments, because the number of Acts of Parliament and Acts of Sederunt which he must make himself thoroughly and practically acquainted with is very much larger in the case of the assistant clerk of the Bill Chamber; and, besides, the assistant clerk of Court, where he has any difficulty, is under the immediate supervision of the judge, to whom he can refer on any question of difficulty with regard to interlocutors. In the Bill Chamber, on the other hand, they are left very much to their own resources, because, especially in vacation, the departments are run by clerks entirely.

58,948. I suppose the special knowledge required for the work of the Bill Chamber must be largely acquired in the Bill Chamber itself?—I think so, but you ought to have a good knowledge of law before you start in it. I mean you ought to be a qualified law agent, I think, before you are an assistant clerk in the Bill Chamber.

58,949. In any case, you would keep the department of the Clerk of Justiciary and the Teinds Department entirely separate?—Oh, they must be. I do not think there is any doubt about that. I have never heard anybody saying that you could promote a clerk of the Bill Chamber, or a clerk of the Extractor's Office, or a clerk in the Court of Session to be Teind clerk. He is quite unfitted for the work. I do not believe there is a member of the profession except the existing Clerk of Teinds and his assistant who could prepare a proper locality. Indeed, I do not think there is any member on the Bench who could do it. I think it is not so difficult or technical a subject but what a very intelligent man, by applying himself to it for some months and going through previous localities and so on, could acquire the requisite knowledge, but he would in the first place need to be a man of special qualifications, and he would need to give special application to it before he could do the work.

58,950. (*Sir George Paul.*) It is a special gift. The man must have to some extent an antiquarian taste as well as be a man of figures—gifts which you do not find in the Bill Chamber or in Assistant Clerks of Session?—You certainly would not find it amongst the Clerks of Court or the Assistant Clerks of Court.

58,951. (*Chairman.*) A large number of the appointments we have been speaking of are direct Crown appointments, as, for instance, the Assistant Clerk of the Bill Chamber. Is there any reason for maintaining the system of direct Crown appointment for any except the highest offices?—Personally, I do not see any reason. I do not see why the appointments should not be made by the Secretary for Scotland.

58,952. The direct Crown appointment has the effect, has it not, of withdrawing the person who is appointed from the necessity of obtaining a Civil Service certificate, and, therefore, from all scrutiny as regards health and other matters by the Civil Service Commissioners?—Yes.

58,953. Do you agree that it would be desirable that the persons appointed should be required to satisfy the Civil Service Commissioners in those respects?—I think it would be desirable, but I do not think there has been much, if any, practical inconvenience caused, because all our offices are so small that the Crown nominee is under the direct personal supervision of his superior.

58,954. At any rate, as regards health it might be desirable to have an examination before admission to such offices?—I think so; certainly.

58,955. Turning now to the Sheriff Court Service, your Committee made certain recommendations concerning the organisation of that service and the method of appointment to it. The essential points of those recommendations were, I think, in the first place a reduction in the number of Sheriff Clerks, so that in future there would be one Sheriff Clerk only in each sheriffdom, and secondly, the division of the deputes into two classes—a special class to be employed where whole-time service was required; and another class, which would consist of part-time deputes, whose services would not be pensionable?—That is so.

58,956. The Sheriff Clerks and the special class of deputes were to be appointed by the Crown—that is to

say, on the nomination of the Lord Advocate—and the remainder of the deputes and the rest of the staff of the Sheriff Clerk offices were to be appointed by the Sheriff Clerk, as at present?—Yes. The great difficulty is because of the small amount of work these people have to do in some of the Sheriff Courts. There is so little doing that it would be simply a waste of public money to pay a man for whole time when he is only giving perhaps an hour per day to the work, and you can get the work performed perfectly well on the present system, and you get it much more economically.

58,957. Did you frame any estimate of the number of posts of deputes who would be included in the special class?—I do not think we indicated the number. I should not think myself that it would be a very large number. It would be confined to the larger towns only.

58,958. It would include, I suppose, the deputes created in the place of the Sheriff Clerks whose posts would be reduced under the suggested scheme?—Well, I do not think necessarily even that. I think a great many of them would not be full-timers at all, nor even half-timers. The sheriffdom I had experience of was that of the border counties—Roxburgh, Berwick, and Selkirk. In none of these places, so far as I know, were the duties of the Sheriff Clerk sufficient to absorb his whole time, and, of course, if you substitute a depute clerk the duties would not be sufficient there either. In fact, in all the rural counties where you have no industries, and very little litigation, and very little crime, you will find that the Sheriff Clerk does not need to devote more than a comparatively small part of his time to the duties of his office, and in the case of the Depute Sheriff Clerk it is just the same. No doubt he has to give attendances at stated hours. I do not think that the special class would include anyone except those who are really whole-timers. Of course, in Edinburgh you have whole-timers; you have also whole-timers in Glasgow, Aberdeen, Dundee, and probably Perth, and in some of the larger centres—in industrial districts like Lanarkshire, and so on. But, if you dealing with the rural and Highland districts, the work is not sufficient to employ a man for his whole time.

58,959. (*Sir Donald MacAlister.*) The number need not exceed 10, I suppose?—I would not think it would exceed 10 or 15. But these people, I believe, have a most substantial grievance under the present system. I really think they are the only people connected with our courts who have a very serious grievance as regards want of chance of promotion and under-payment for the work they do.

58,960. (*Lord Dundas.*) Who are these people you refer to?—I mean the people second in command in one of the larger Sheriff Courts like Edinburgh, for instance; the man who is not the Sheriff Clerk, but just his depute.

58,961. (*Sir Donald MacAlister.*) You mean the whole-time depute?—Yes.

58,962. (*Chairman.*) You would remedy that grievance by improving their pay and by making them pensionable. The Report of your Committee did not contain any express recommendation on the latter point, but I gather that it is your view that the Sheriff Clerks who are retained under the system, and also the special class of deputes, should be made pensionable?—Yes. Wherever you compel a man to give up all his other work for his appointment there, I think, he should be made pensionable. On the other hand, where you allow him to conduct other work, he ought not to be pensionable. Under the present system Sheriff Clerks do conduct other work in a good many cases, and that, I think, is desirable in the public interest, as it must save the public purse a very large amount of money.

58,963. As regards prospects, you would lay down that the special class of deputes should always be considered for promotion if there is a vacancy amongst the Sheriff Clerks?—Yes.

58,964. We have had evidence from some of the subordinate staff in the Sheriff Court offices with reference both to their rate of pay and also to their prospects.

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Is it practicable to extend the principles you have suggested further, and to introduce some scheme of promotion for the subordinate staff of the Sheriff Clerks?—Yes, in the case of the larger Sheriff Courts, I think so. I think it would be desirable that these people, say in Glasgow Sheriff Court or in Edinburgh Sheriff Court, should be able to rise to the position of depute.

58,965. And you would lay down that their fitness should be considered before any outside appointment was made?—I think so.

58,966. It was suggested also that it would be to their advantage, and to the advantage of the service, that there should be opportunities of promotion by transfer among members of the subordinate staff in the different Sheriff Courts. Would it be practicable to introduce a system of that kind?—Yes; but I think there are difficulties connected with it, because you would scarcely get a man transferred, say, from Glasgow to the North of Scotland, or *vice versa*. In such a case, there can be very little knowledge of his qualifications for the place to which he is proposed to be transferred.

58,967. Does not one difficulty arise from the fact that the appointments in each district are in the hands of the Sheriff Clerk, and that the Sheriff Clerk would not know the merits of the persons employed in other districts?—Exactly; that is what I mean.

58,968. The suggestion has been made that if the number of Sheriff Clerks is reduced to 15, a small committee of three or four of the principal Sheriff Clerks could be appointed, who would consider applications for promotion by transfer, and who would have opportunities of ascertaining the merits of the various clerks in the country. Would a system of that kind be practicable, do you think?—I think it might be. Of course, it alters the responsibility to a certain extent.

58,969. If a committee of that kind existed, the question would arise whether it should be empowered to make appointments or whether it should make a recommendation to the Sheriff Clerk?—Yes. Personally, I think that might work quite well, because they would have greater knowledge in such a committee than could be possessed by the person who made the appointment.

58,970. If such a committee were formed, the three or four principal Sheriff Clerks composing it would probably include in their own offices more than half the whole service?—Yes. I must say, however, that I have not had an opportunity of considering that suggestion, so that I cannot say that I have very strong views on it.

58,971. You do not consider it practicable to introduce the pension system for the subordinate staff?—I think that is out of the question. I do not see how it could be done.

58,972. The main difficulty being, I suppose, that a large number of them are not whole-time employees?—Yes. So far from being whole-time employees, they devote a very small part of their time to the duties of their office.

58,973. We have had representations here from some of the Sheriff Court clerks as to their remuneration. Can you express any opinion on that point?—In the Report of the Departmental Committee we indicated what we thought the deposes who are whole-timers should start with—

58,974. But I am speaking now of the clerks of the subordinate staff?—I do not know whether it is necessary to have these matters fixed. They generally solve themselves through commercial considerations.

58,975. The suggestion was that the limits of the allowance for the payment of clerks fixed by the Treasury did not permit the Sheriff Clerks to pay good salaries?—Yes, I think that may be so as regards the larger courts; but it has very little application to the smaller courts.

58,976. Have you any knowledge as to whether difficulty is experienced in recruiting the subordinate staff?—No; I cannot speak as to that. I know nothing about that.

58,977. Turning now to the Procurators Fiscal, the question which arises there is to some extent of the same character as that which arises in the case of the Sheriff Clerks. The number of places where the work will

occupy a man's whole time is limited; but at the same time there is a difficulty in reducing the number, because there may be urgent matters to attend to in each district?—I do not think there should be any reduction of the numbers of Procurators Fiscal. The success of our system depends very much on there being a public prosecutor within easy reach of the witnesses to any particular crime, and I have a very high opinion—perhaps I am biased—of our system of public prosecution. I do not think there is any country which is so well served in that respect as Scotland. Hitherto it has been done by having a Procurator Fiscal stationed in every centre. In many places he has not enough work to occupy his whole time, but the best local solicitor has been chosen for the work, and it is an honour to be a Procurator Fiscal, and you get the services of the best men at a very low figure. The objections that have been stated to a Procurator Fiscal being not a whole-timer are, I think, entirely out of the question. Our best Procurators Fiscal have been those who are not whole-timers.

58,978. The tendency of late has been to extend the number of posts where there is restriction of private practice, has it not?—Personally, I have always regarded that as regrettable from the point of view of public economy. If you are to get a good man you have to pay him an adequate salary, and in most of our small towns in Scotland he has not enough to do, and the result is that he just goes to seed. Of course, where you have enough work for a man to occupy his whole time, then you should debar him from private practice. But, again, taking the sheriffdom where I was, namely, Roxburgh, Berwick, and Selkirk, in that sheriffdom you do not have a case of serious crime more than once every second year from the whole three counties. I have looked at the statistics there, and I find that about once in every two years there is a High Court case from these three counties. There are, of course, a great many petty offences, which are chiefly cases of poaching—salmon poaching offences in these three counties—but they are not sufficient to occupy any man's whole time. I believe the Procurator Fiscal of Jedburgh, who is an admirable person, is a whole-timer. I think that the public purse might have been saved half his salary if he had been allowed to keep his practice, and I believe that in that case he would have done his work just as well.

58,979. (Lord Dundas.) Do you know what his salary is?—I cannot remember. He happened to be appointed on my recommendation. I think he was the only person I ever had to do with in the way of appointing.

58,980. (Sir George Paul.) You say that if a man has very little to do he generally deteriorates in a country town?—I think so, and if he does not do that he does something very much worse: he starts prosecutions that should not be started in order to justify his salary.

58,981. Until he becomes a nuisance?—Exactly.

58,982. (Chairman.) Jedburgh has now been joined with Duns, has it not?—Oh, has it?

58,983. Would those two posts not be sufficient to occupy a man's whole time?—I do not think so.

58,984. Then you would restrict private business only in those cases where the work occupies a man's whole time?—Yes.

58,985. In other cases would you make the Procurator Fiscal pensionable?—No, not where he is doing private work.

58,986. But you would make him pensionable where his business is restricted—where he is not doing private work?—Yes; I think every person who is excluded from doing other business, and who depends entirely on his Crown salary, should be pensionable. In cases where he is occupying his time otherwise by means of private practice, I think he should not be pensionable.

58,987. You would apply the same principle in the case of the Depute Procurators Fiscal?—Certainly. I do not suppose there are any deposes, except in a very few courts, who are full-timers.

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58,988. We had witnesses yesterday representing the Procurators Fiscal Depute, and they told us, I think, that there were eight or nine?—Yes, I should think so. But we must remember that after all that only represents a fraction of the number, and I think these are all connected with the larger centres.

58,989. Where they are whole-timers you would make them pensionable also?—Yes, I think so.

58,990. Would you leave the power of appointing Procurators Fiscal where it is at present?—All I can say for the political appointments is that they have not been badly exercised in the past. As regards the Procurators Fiscal, I think they are appointed on the recommendation of the Sheriff. That is my recollection, but the Crown sometimes decline to appoint the nominee of the Sheriff.

58,991. Have there been some cases lately in which a Procurator Fiscal has been promoted from one post to another?—Yes. I think that has been the common practice so far as there has been a practice at all. I think the practice has been to bring a man who has proved himself a thoroughly good man—I am speaking just now of whole-timers—from a less important sheriffdom to another that is more important, and I think with the very best results.

58,992. You think it is desirable that that plan should be regularly followed?—Yes, I think so. I am thinking now of Mr. Renton, who was promoted from Cupar, where he had shown himself very active and efficient, and became Procurator Fiscal in Edinburgh; and I think his successor was also promoted from some of the more important sheriffdoms.

58,993. The question has been raised of desirability of fixing an age for retirement. A limit of age has been fixed in some cases at present. Are you of opinion that a limit should be fixed generally?—Well, as regards the clerks in the Court of Session, while the duties of their office occupy substantially their whole time, it must always be kept in view that it is not exacting service; that the work can be done just as well, perhaps better, by an old steady man than by a young active man. Their duties consist in sitting in the Court drafting such interlocutors as have to be drafted each day, and in attending to the process. They need to be reliable and careful, and these qualities, I think, you will find present in a higher degree in elderly men rather than in younger men, and I do not think it would be desirable that people, irrespective of their capacity and of their willingness to continue to serve, should be pensioned off, say at the age of 65 years. It would mean just an unnecessary expenditure of public money for no advantage.

58,994. Have you known cases of men who remained at their work after they had ceased to be fully fit for it?—I cannot recall any such case at present. I have known one Clerk of Court, in my remote youth, who was quite unfitted for his duties, but that was not because of age, but because of habits.

58,995. Then if a limit of age is fixed your view is that it should not be so low as 65 years?—No. If you fix an age I think you should fix 70, and even then, I think, there are many men who would like to go on, and might be permitted to do so on getting a certificate of fitness from some of their immediate superiors. I am speaking in the interests of economy, because I think it is such a pity that if you have men qualified for their work, and who want to go on with it, that they should be sent about their business with a pension.

58,996. There is one minor point on which we should like to have your opinion. It was suggested that the Commissary Clerk of Midlothian should be abolished, and that the work of his office should be transferred to the Sheriff Clerk of Edinburgh. Do you consider that desirable?—As far as I know I do not think there is any reason why it should not be done. Of course I am not acquainted with the details of the work done in either of these offices, but I cannot see any reason why it should not be quite well overtaken in the Edinburgh office, by perhaps an addition to the subordinate staff.

58,997. The Commissary Clerk deals with certain classes of cases which are not dealt with by the Sheriff Clerks in other districts of Scotland?—Yes. I fancy

that it would need legislation to transfer it to the Sheriff Clerk of Edinburgh, but I cannot see any objection on principle to the extinction of that office, because I should not imagine that he can have enough to do with the cases of Scotsmen dying furth of Scotland. The number of estates that he has to deal with must be comparatively limited.

58,998. We are told that he has a staff of several clerks?—Has he?

58,999. (*Sir George Paul.*) In fact the Commissary Clerk of Edinburgh has much more important duties to perform as regards commissary work than the Sheriff Clerk in an ordinary county?—Well, you are much more familiar with the details of that class of work than I am.

59,000. (*Chairman.*) Another question that has been raised is, whether it is necessary to have a Procurator Fiscal for the county of the city of Edinburgh, or whether that work can be done by the Procurator Fiscal of Midlothian?—That is a question I can express no opinion of any value upon, because I do not know the details of the work that is done.

59,001. There is one point in connection with the Court of Session on which I omitted to ask a question. Your Committee expressed a strong view in favour of the transfer of the offices of the Court from the Register House to the Parliament House, and considered that certain improvements of organisation could be effected if that was done. Do you think that that would be a very advantageous change?—I think it would be greatly to the convenience of the profession, and that you would be able to save some salaries. I do not see in the least why, if there was that transfer, the whole work of the Outer House might not be performed by two assistant clerks instead of four, as at present.

59,002. The processes might be dealt with, I suppose, in one place instead of in a number of separate places, as at present?—Yes; and there would also be the convenience of the agents having access to the office the whole time instead of having, as at present, to go down at certain hours in the afternoon. Personally, I think it would conduce very much to economy as well as to convenience.

59,003. (*Mr. Matheson.*) I think you expressed an opinion against an advisory committee to advise the Lord Advocate. Have you had any experience of committees appointed to sift the claims of candidates and to make recommendations for appointment?—Well, only in a minor way—not with reference to appointments of this kind.

59,004. Are you aware that for many educational appointments such committees are appointed and work successfully without the least suspicion of personal or political influence?—I have no experience of them at all. I do not know that I know of anything we have in Scotland of that kind, except, perhaps, in the case of an appointment to a new church, where generally there is a committee appointed to draw up a list of candidates for the occupation of the pulpit. There, as the appointment rests with the congregation, it is, of course, necessary that there should be a committee to act for them.

59,005. Can you explain to me why you and others seem to have such a profound distrust of such a committee if you have no experience of their working?—Well, I suppose, perhaps, we rather distrust a diffused responsibility, and, speaking for myself, I think a committee would not be so likely to have the same means of knowledge as, say, either the Lord Advocate or the President of the Court of Session.

59,006. (*Mr. Shipley.*) On page 5 of your précis you say, "I am convinced that there is no country where inquiries or prosecutions are so efficiently dealt with as in Scotland." Is that a general impression, or is it founded on statistics?—Is that with reference to our criminal system?

59,007. Yes?—It is founded upon a study, to some extent, of other systems.

59,008. It is not just an impression?—No. I have really considered this matter over a long course of years, and I have honestly come to the belief that our system is a highly efficient system, and one which is really not capable of substantial improvement. It has

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grown up and improved gradually until, I think, it is now exceedingly efficient, and one of the best proofs of that is that private prosecution is permissible in Scotland, but you never hear of any person instituting a private prosecution. Personally, I have only known one case in my whole experience where the Lord Advocate refused to prosecute, and the Court compelled him to give his sanction to the prosecution. The people in Scotland are, I may say, absolutely content with the system of public prosecution we have here. We never hear a whisper against it.

59,009. (*Sir Donald MacAlister.*) I think you are very desirous to encourage the system of promoting men from one department to another—in any given department that is homogeneous?—Yes.

59,010. Is that quite consistent with your objection to early retirement?—I think so, because what the young man loses in the chance of early promotion he gains in being able to hold his office longer. I mean you are just deferring the fruits of office for, say, five years, but then you are giving him a longer tenure when he does get it.

59,011. (*Mr. Graham Wallas.*) At present the Sheriff Clerk is, I think, usually selected from among local solicitors?—Yes.

59,012. And his deputies are not men of the same prosperity, as a rule?—No.

59,013. Would that fact make, in your opinion, promotion undesirable from the deputies to the position of Sheriff Clerk?—Well, I think you would need to have a man who had shown himself highly qualified as a deputy before he could take the same position as the existing Sheriff Clerk.

59,014. You think it would be exceptional?—I am inclined to think it would be.

59,015. But you think that in exceptional cases it is desirable?—Yes.

59,016. Would you say the same thing with regard to the promotion of the Deputy Fiscal to the Procurator Fiscal?—I should certainly think it should not be the rule even there, because for a Procurator Fiscal, I think, you require above all things a man of high standing in his profession and a man of judgment and experience, and these qualities you can look for more safely in a person who has had all-round general experience than in a man who has merely been engaged in a particular office.

59,017. You want the kind of experience which can only be gained in the outside world?—I think so.

59,018. We have been told that the Procurator Fiscal is paid a lump salary, from which he pays both his own salary, so to speak, and the salaries of his clerks?—Yes.

59,019. The Sheriff Clerk is also paid a lump sum, but he is instructed that he must pay certain sums to his clerks and hand in their receipts for them. The reason for that difference, I understand, is purely historical, but do you think there is any sound reason for such a difference being continued?—Well, the latter system provides a certain protection for the clerks and ensures that they are not very much underpaid; but I really do not think that it would be necessary in the case of the Procurators Fiscal, speaking generally, that they should have to give an account of exactly how much they pay their clerks. In some of the districts the amount of work done by the clerks must be very small, and these clerks are employed by the Procurator Fiscal, who is generally a solicitor, in other work.

59,020. We had some cases in evidence yesterday where young men giving full-time service were paid salaries that were startlingly low?—I suppose they would be apprentices, really—practically apprentices. I am afraid I do not know enough about these matters to express an opinion on the point.

59,021. One of our witnesses yesterday called attention to a danger from the system of lump sums to be accounted for by receipts. He said, that in an office with which he was familiar, the clerks were hoping for a certain increase of salary from a vacancy which occurred and more money to divide, but that their employer appointed his brother, who we were told was a bankrupt draper, and gave him 400*l.* as

salary. That, I suppose, would amount to a scandal?—I think so.

59,022. Is there any way you know for preventing that?—I should not like to hazard a suggestion.

59,023. Now, would one way of preventing it be that of requiring an age of entry as well as an age of retirement appropriate to each post?—I do not know if that would be practicable. I think, at all events, from the public point of view, that the commercial method that prevails is the cheapest.

59,024. If we are to propose that any of these people should be pensionable, obviously part of the economy is not only to keep them on as long as you can, but to appoint them at an early age?—Of course, that is obvious. With regard to the Procurator Fiscal, the whole responsibility rests with the man himself. His clerks really just do more or less the mechanical work—the copying. He must apply to every case his own judgment—he cannot leave anything to the clerks.

59,025. Speaking about the Service generally, would you not say that the statements we have of the age at which men are appointed to purely clerical labour shows that an entry age limit would be desirable?—It might be, but, of course, I have not really myself come in contact with the purely engrossing staff. My personal experience is limited to the minor officials as distinguished from the clerical staffs.

59,026. Take the appointment that was made to the Courts the other day—that of a gentleman at the age of 67. That was rather a high entry age for the public service, was it not?—I think so. I think it is quite unique. I do not remember of any other gentleman being appointed at that age.

59,027. Now, with regard to political appointments, I take it that political qualification means not mere abstract inquiry as to the man's political beliefs, but actual political service?—As I say, I have never had any patronage of any kind, so I do not know, but of course one knows in a general way that a man who has been very active in giving political service has a better chance for such posts.

59,028. Now, will you agree that in deciding whether a system of political appointment to administrative posts is good or bad, one must consider its whole effect on the community as well as the question whether in any particular case the man is suitable for the post?—Yes.

59,029. And one effect is its influence on party politics. Would you agree that party politics only work tolerably well when men only support their party whole-heartedly from real conviction, and when they become doubtful they hang back when they become convinced that their party is wrong they retire from their party?—I think so.

59,030. And that if any system, whether in America or in the Colonies or anywhere else, creates in each locality a certain number of men who look to politics for success in their own careers, that fact produces men who are active organisers, but whose utility to their party is actually entirely independent of their political convictions?—I agree with that from a theoretical point of view. I think the defence of our political appointments in Scotland is that they have hitherto very seldom given rise to any great dissatisfaction.

59,031. But if you think about the active political lawyers of any party to which you do not belong, could you think of cases of men whose activity would be likely to go on independent of their political convictions?—I think so. If you have America in your mind I would entirely agree with that. I know something of America and the mode in which appointments are got there.

59,032. You would say that it is a real danger to have a body of skilled, highly trained, determined office-seekers or “spoilsmen,” as they call them in America, who consider that their party calls for their services most urgently and is likely to reward them most amply when the party is apparently most in the wrong?—Yes, I sympathise entirely with that view.

59,033. And I suppose you agree that if both in America and in our Colonies there have been attempts

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from time to time to make the profession of spoilsmen less profitable, you would sympathise with that?—I sympathise entirely with that. I do not like political appointments if you can substitute something better than the system we have at present.

59,034. You say that your own Committee followed in their Report the lines of least resistance?—Yes.

59,035. But you would agree that if you are dealing with an established habit of the spoil system it may be necessary sometimes to issue a report on the lines of very considerable resistance?—Possibly. We were very anxious that effect should be given as soon as possible to the recommendations we made, therefore, we made recommendations that we thought would not bring us up against any determined opposition.

59,036. Your Report, I think, was made in 1911; it is now 1915, and the result is that nothing has been done?—Oh yes, something has been done. For instance, the Clerks of Justiciary have had their merits recognised by some increase of salary. The Extractor's Department has been to a certain extent remodelled. One Principal Clerk of Court has, in accordance with the views of Sir William Haldane, been abolished, and we find that we can get along without him, and his salary has been utilised to improve the position of some of those whom we recommended for consideration. Something has been done, but not enough.

59,037. That represents rather the gleanings than the harvest of your Report?—Yes. I admit that nothing has been done with regard to the Sheriff Court Deputes, and these are the people, I think, who have the most claim to consideration.

59,038. You tell us in your précis, "No Lord Advocate of my acquaintance would care to risk his reputation in order to perpetrate what the profession would regard as a job appointment"?—Yes.

59,039. Now, in December last, a gentleman of 67 years was appointed to a rather well-paid post, which I understand he had to surrender at the age of 70. Now, I take it from you that that is not a "job"?—It is in one sense, but I believe he is thoroughly qualified for his duties.

59,040. Would you mind giving us a wholly imaginary case of what you consider would be a "job"?—Where you select a man who is manifestly unfit for the post—that is, in my opinion, a "job."

59,041. The age in this case was manifest enough?—Oh, yes. I think it was very exceptional. I may explain that I had not that case in my mind at all when I wrote that précis. I was thinking more of the higher appointments such as the judicial appointments in the Supreme Court and so on.

59,042. Now, during the last few weeks, Party Government has been modified or suspended to a great extent. Have there been to your knowledge any legal appointments made during that period?—Not in Scotland so far as I know.

59,043. Then you have no knowledge on what principles such legal appointments will be made in the future?—I am afraid not. Such appointments as have been made have simply been continuations of existing appointments.

59,044. But that question might come up, I suppose?—It might.

59,045. (*Sir George Paul.*) Mr. Wallas mentioned to you a case where one of the subordinate staff had a very small salary. There is one other striking case, that of one of the staff of the Sheriff Clerk at Dumfries, where the salary seemed to be very small, and I think we all agree that these salaries are inadequate?—I should not think that a living wage.

59,046. As regards appointments, your view is that the system of political appointments is not an ideal system?—No.

59,047. But you think that upon the whole it has worked reasonably well?—Yes.

59,048. Now, supposing for a moment that the Commission should think that political considerations should be eliminated in making public and non-political appointments, have you anything to suggest to the Commission in the way of assistance as to what alternative might be presented?—I do not know really anything better than to take the head of the Court, and

if you like give him some assistance with regard to certain classes of appointments.

59,049. That was the suggestion also of the Society of Writers to the Signet, but Lord Dunedin used very strong language about it yesterday?—Of course he is much more qualified to speak on such a subject than I am.

59,050. (*Mr. Clynes.*) Can you say whether this element of political influence operates in the case of the quite lower appointments?—You mean the clerical appointments?

59,051. Yes?—I do not think so.

59,052. In your opinion men who have been appointed for certain political considerations do not carry any sort of political authority down in the lower scale of the appointments?—I do not think so. I think for the most part that is left to the head of that particular department.

59,053. (*Sir John Kempe.*) Your Committee contemplated the elimination as far as possible of all political appointments?—Yes.

59,054. And I think you say it is impossible to eliminate them altogether, because there is not a sufficient number of junior clerks for a suitable selection for the junior posts?—Yes.

59,055. You make two suggestions: that promotion should be from the existing staff or otherwise from the Lord Advocate's clerks or the judges' staffs. What are the means you contemplated of filling up the staffs?—Outside appointments generally; I mean the appointment of a qualified legal practitioner. That, of course, we had fully in view. There have been several appointments of solicitors to the Supreme Court to be clerks of process, and they are content to give up their practice, especially when they are getting over middle life, and get the comparative ease of the position of a clerk compared with the worry of their existing business.

59,056. You exclude transfers on the ground that the principle of water-tight departments must go on?—I think they must always go on. You will not get the same efficient work unless you make men specialists. In the Justiciary Office, for instance, they learn nothing with regard to civil procedure; their whole minds are turned to criminal procedure, which is a very special department in itself, and requires the very greatest care. In the Civil Courts, on the other hand, they know nothing of criminal procedure, and accordingly they would have to learn their business when you put them into a position in which they are to act in connection with criminal procedure, and that is very unfortunate.

59,057. But any kind of appointment from outside is open to the objection which, I think, you raised, that the inferior may have to teach the superior the work for some months?—Yes.

59,058. That, of course, I think, is common to all professions. For instance, a new minister has to be coached by his assistant, and so on?—Yes; but I think it is rather hard that the teacher should be paid at a lower scale than his pupil.

59,059. Yes; the inferior has experience, but the person brought in is superior in intelligence and ability generally?—Yes, perhaps.

59,060. Therefore, it is not a reason against appointment from outside?—I think it might be defended. In the case of the Principal Clerk of Court, for instance, that should always be an outside appointment, because you find that there are petty jealousies among those who are on an equal platform; and if you promote one of these men above the heads of his fellows, they will not recognise his pre-eminent merits, but, on the other hand, they will fall into line under an entire outsider, even although he may be no better man than one of the existing staff. Therefore, I think these are certainly appointments that should always be made from outside with a view to discipline. That is a typical one. Probably there are not many that need to be appointed from outside.

59,061. As to the age limit, you said that the community ought not to be burdened by a pension to a man who is not incapable of doing his work, and who is quite willing to do it. That, of course, applies to the

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whole service?—Perfectly true, but in so many branches of the Civil Service a man may become unfit by mere loss of activity, mental and physical, for his position; and it may be desirable that there should be a hard and fast age limit fixed. With regard to the appointments that we are considering here, most of them may be performed by men who have small physical activity, but whose mental powers remain unimpaired. That is perhaps not quite the case with the Procurator Fiscal, who has to do a good deal of travelling if he is to do his work efficiently, but it certainly applies to the Clerks of Court, whose duties do not require much activity.

59,062. It would also equally apply to the whole Civil Service outside that department, would it not? There are a large number of Civil servants who are pensioned, but who would be quite willing to go on with their work, and who are able to go on with their work?—Personally, I think it is a mistake.

59,063. (*Mr. Boutwood.*) I think there is one difference. So far as one can make out in these legal offices, not only here in Scotland, but in England, it seems to be the case that the men are valuable chiefly as they accumulate knowledge of a rather minute and specialised routine?—Yes.

59,064. And that is a sort of thing that may go on for an indefinite number of years. Well, that is not quite the measure of a man's utility in the ordinary Civil Service. Is there not that difference between the two?—Quite right. I would say that I think a man becomes more valuable because of the experience that he accumulates.

59,065. (*Sir John Kempe.*) You have machinery, I think, for safeguarding against a man continuing to work after he has become unfit for duty?—I should say that if you had an age limit of 70, he should require to be certified by some authority for further office. You would have that safeguard. I know that I suggested that in the case of a Procurator Fiscal. He was to be compulsorily retired at 65 years, and I asked the Crown to put in a qualification, unless the Sheriff should certify that he was fit and desirous of continuing in his office for another year, and so year by year you could control the continuance of his office.

59,066. The comparison is between the expense of giving a man a pension, and the expense of paying a man for doing nothing?—Yes.

59,067. (*Miss Haldane.*) On this Civil Service Commission we have been trying lately to find machinery for procuring the best man or woman, as the case may be, for a particular situation. You say that in Scotland we get a reasonably good, but not the best, man. You do not defend that position, do you?—I do not say that the Lord Advocate of the day is necessarily the best person to make selections.

59,068. At any rate, we ought to aim at a somewhat higher ideal?—Yes.

59,069. I suppose you agree that there is a certain inducement to men to act possibly against their own convictions where they consider that it will be to their personal interest?—A man may desert his party on the footing that his only hope of promotion lies with the other party.

59,070. Do you agree that there is a considerable amount of canvassing for appointments, and especially minor appointments?—I think so, speaking from the small experience I have had.

59,071. And, that, I suppose, you consider a bad thing in itself?—Yes.

59,072. I hardly think there is at present sufficient machinery for promotion in the minor legal offices?—I think we ought to get as much promotion as we can get in the minor legal offices.

59,073. When a man goes into those offices his training does not qualify him for doing other things satisfactorily, therefore, he must join early if he is to get promotion?—I think that is probably less true of appointments connected with the Court of Session, because there are really no boys admitted into it.

59,074. I was rather thinking of the Sheriff Clerks' staffs?—Yes, I think that is quite probable when you are dealing with the few central Sheriff Clerks' offices where they employ a large staff.

59,075. Unless the boy gets promotion it becomes really a blind alley occupation for the most part?—Yes.

59,076. And, therefore, that is rather a serious evil, I suppose?—Yes. I do not think that applies to the ordinary clerk in the rural Sheriff Clerk's office, because he is qualifying himself for everything else as well. It is only in those places where you need a large clerical staff to devote their whole time to the duties that that is specially true.

59,077. In your précis you speak about the Procurators Fiscal, and you say that they should not be too far removed from the locality where the crime is committed. I take it that in saying that you do not refer to their homes, so to speak?—What I mean is that you should have a restricted area in each of which there should be a Procurator Fiscal.

59,078. I wanted to make quite sure whether you approve of their promotion from one post to another?—Certainly.

59,079. You do not approve of their remaining at a place on the ground that they know the locality well?—I am not in favour of that at all. I am in favour of a competent man being taken from a less busy place to a more busy place and paid a higher salary where he is a whole-timer; but I think it is desirable that the area in which the Procurator Fiscal has his jurisdiction should not be too large, so that people may have ready access to him in order to lodge their complaints.

59,080. One witness spoke of the knowledge that a man got of the personality of the district, but you do not put much weight upon that?—It is useful in some cases.

59,081. But you would not restrict promotion on that ground; you would not keep a man in one district—say, for instance, in a strictly rural district—all his life because he was acquainted with the district?—No. My observation applies to those who are not whole-timers.

59,082. Do you think in such cases some other Government appointments might be given to a man? Would it not be a good plan to give Government prosecutions and so on to a man who is already an official, or have you any objection to that?—In that case you would have to give him two or three areas to give him sufficient work to occupy his whole time. If you combine two or three large rural areas, the people are a long way removed from the place where they can lodge their complaints and he is a long way removed from the witnesses he has to see, and I think it is far more important that you should have a good man within easy access of the people whom he serves. Our very best Procurators Fiscal have been local solicitors of good standing who will devote so much of their time as is necessary to the duties of that office, but who carry on a large practice otherwise and who have the confidence of the public at large in a way that a salaried official not acquainted with the locality would never possess.

59,083. Just one other question. Have you had any experience in your investigations of women employed in legal offices?—No. I think there has been one small change, namely, that a woman typist has been taken into the Extractor's Office. I think that is the only instance of a woman who is in any of the legal departments.

59,084. Have you any views to express on the merits or demerits of the question?—Well, I am told that the women typists are very much better than the men typists.

59,085. But you have no views to express on the desirability of allowing women to enter these offices?—Well, that is a very large question. Of course, you would first have to qualify them to enter the legal profession. If they are qualified to enter the legal profession there is no reason why they should not occupy the position of clerks.

59,086. Personally, have you any views on that subject?—No, I have never considered the point.

59,087. (*Lord Dundas.*) In considering any scheme for the consolidation of the various court offices, I think you mentioned to the Chairman that obviously some of the departments would have to be excluded. There must be, as somebody put it, "watertight departments."

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[Continued.]

That would exclude the Crown Office, the Justiciary Office and the Teind Office and also, to some extent, the Bill Chamber and the Extractor's Office?—Yes.

59,088. And is this the residuum left—the Clerks of Court and the Bill Chamber and Extractor's Office so far as not excluded?—Yes.

59,089. That is a small body of men, is it not?—I suppose it amounts to 15 or 20 altogether.

59,090. Is there, in your view, any practical room for the consolidation of these offices?—No, except that I think that more play should be given to promotion among that small body.

59,091. Then one other distinct matter. You told us that in your view the Sheriff Clerks Depute were a hardly dealt with class, especially the whole-time ones, and I think you said that they ought to be pensioned. How is that to be obtained? In order to make them pensionable would they have to be in that respect, and in what other respects, Civil servants?—I think, of course, the present system would have to be changed by which they are the nominees of the Sheriff Clerk. That would have to be changed, and they would need to be made Crown appointments or Civil Service appointments.

59,092. Have you personally thought out how it could be worked in practice?—No, I cannot say that I have. The only things we really considered are embodied in the report of the majority.

59,093. I was asking for information, because one feels that there is great force in the view of yourself and other witnesses that those men ought to have pensions, and I did not know whether you could assist me to see how that is to be worked out?—Of course, I am speaking only of the whole-timers.

59,094. A small body?—Yes.

59,095. And the same applies to the Depute Procurators Fiscal—the whole-timers among them?—Yes.

59,096. You were asked about the element of party politics so far as existing in the present system of Lord Advocate's appointments. I understand your view to be that, however theoretically objectionable that system may be, it has in the past worked as satisfactorily as any other you could figure?—Yes, I think it has worked quite satisfactorily, although I do not say that there might not be a better system devised.

59,097. I understood you to express your view as against what has been suggested in the way of an Advisory Committee to assist the Lord Advocate?—Yes. For my own part I would rather have the matter intrusted to the President of the Court of Session, or that he should be the person who made the recommendation upon which the Crown would act. Of course it might be in certain cases open to exception. He from his position has become divorced from politics, and he need not yield to the clamour of a section in the same way as perhaps the Lord Advocate is compelled to do.

59,098. You are against an Advisory Committee, as I understand?—Yes, because I do not think there is sufficient scope for its action.

59,099. You would rather have one man than several men at the job?—Yes.

59,100. And I gather that you would rather have one man who is directly responsible to Parliament and to the Parliament House than somebody who is not?—Certainly to the Parliament House.

59,101. And also, I think, you said that the Lord Advocate had means of information which you did not think a body of commissioners could so readily possess?—I think so.

59,102. Then you suggested that some of these appointments, at least, might be committed to the Lord President?—Yes.

59,103. I think Sir George Paul informed you that the position of this Commission as regards that matter was, that it was mooted two days ago by Mr. Jameson, W.S., and it was condemned yesterday by Lord Dunedin in pretty forcible language; and I want to know whether you really put it forward as a convinced

view of your own or in what way you do suggest it?—I put it forward on this view, that I think the holder of that office is a person who commands the respect of the profession and of the people of Scotland at large.

59,104. Are you in any way influenced by the fact that Lord Dunedin disapproved of the suggestion in no measured terms?—Well, I should like to see what he said. The fact that he was unwilling to exercise the patronage himself might only indicate that he was against being compelled to do it.

59,105. Of course the Lord President of to-day is very often the Lord Advocate of yesterday, is he not?—Yes; I should say generally he is.

59,106. The Lord President during the earlier part of his career might, I gather from you, to some extent retain at all events his feelings of political friendship if not of political bias?—Yes.

59,107. Later, when the Lord President had been on the bench for a considerable time, would he not be out of touch with the conditions of appointment and the persons to be appointed in a way which would differentiate him entirely from the Lord Advocate of to-day?—He certainly would not come nearly so much in personal contact with the members of the profession. He might, perhaps, inform himself, however, sufficiently.

59,108. Well, you have stated your personal view on the point, and I accept it at that. Now, there is only one other matter. You alluded, I think, to a recent case of private prosecution. I suppose you had in your mind the case of Coat against Brown?—Yes.

59,109. In that case the Lord Advocate declined either to prosecute or grant concurrence?—Yes.

59,110. And the private complainer then came to a full bench of the Court, and the Court allowed him to proceed without the concurrence of the Lord Advocate?—Yes.

59,111. Your Lordship, I think, said that the Court had ordained the Lord Advocate to grant concurrence?—Perhaps I was wrong. I think the Lord Advocate's position was fairly well vindicated, for while the jury convicted no sentence was imposed, at the request, I may say, of the private prosecutor.

59,112. Verdict was obtained, and, I think, the prosecutor then intimated that he was satisfied with that and did not wish a penalty?—Yes.

59,113. (*Chairman.*) What was the offence?—It was nominally a case of fraud—a representation that certain coals were from a certain pit, when, in point of fact, they were from an adjoining pit where the coals were of exactly the same quality. I think that is what it really came to.

59,114. (*Lord Dundas.*) The Lord Advocate's statement to the Court was that he thought the complaint relevant, but declined to prosecute because he doubted the possibility of getting a conviction?—Yes.

59,115. (*Chairman.*) In suggesting that the Lord Advocate's power of nomination should be transferred to the Lord President, do you include the whole of the nominations at present made by the Lord Advocate? In particular, do you include the appointments of Sheriff Clerks and Procurators Fiscal?—Yes, but I think that probably if he were dealing with Sheriff Court appointments he would need assistance. I do not quite see how the Lord President could know sufficient about the qualifications of the local solicitors to make a selection.

59,116. But he could obtain information?—Yes, he would have to obtain the information in some way.

59,117. And as regards Procurators Fiscal?—As regards Procurators Fiscal, they are really, I think, appointed by the Sheriff.

59,118. (*Miss Haldane.*) We are told that the appointment is made by the Lord Advocate?—Well, it must be changed. The system must be changed since my time. Personally, I thought the old system was quite a good one.

Mr. ANDREW HARRISON, Sheriff Clerk of Midlothian, called and examined.

59,119. (*Chairman.*) I understand, Mr. Harrison, you are Sheriff Clerk of Midlothian?—Yes.

59,120. What office had you previously held?—Sheriff Clerk Depute and Assistant Sheriff Clerk.

59,121. How many years have you been engaged in the Sheriff Clerk's office?—About 33 years.

59,122. Are you a qualified law agent?—No, I am not.

59,123-4. Are you giving evidence on your own behalf or on behalf of your colleagues as well?—I am not giving evidence on behalf of anybody at all. I am just expressing my own views.

59,125. What does your staff consist of?—There are three deputes and five assistant clerks.

59,126. Had your deputes previously been clerks?—They had—all of them.

59,127. In your own office?—Yes.

59,128. They were promoted from lower grades in your office?—Yes.

59,129. What is the organisation of your office? Is it divided into different departments?—Yes; there are three departments. One of these is the general department, the second comprises small debt work, and the third is summary criminal work.

59,130. How many courts do you deal with?—Well, we have four Sheriffs sitting. As a rule, the four of them sit on three days of the week and three of them sit on every day of the week. There are often four Sheriffs sitting at the same time.

59,131. You and your three deputes attend those four courts?—Yes.

59,132. Besides the work in court each depute has a particular branch of the office work?—Yes.

59,133. At present, I think there is no statutory qualification for appointment as a Sheriff Clerk Depute?—No, there is not.

59,134. Is it your opinion that there should be any such qualification?—I do not think it would be any improvement to have any such qualification. I think service in a Sheriff Clerk's office or in that of a solicitor in general practice is much more important.

59,135. You do not attach particular importance to technical qualification as a law agent?—No, I do not.

59,136. That qualification implies a certain period of apprenticeship and passing certain examinations?—Yes.

59,137. But I gather that you consider that actual experience is more important than that particular qualification?—Yes, I think so.

59,138. What value do you attach to experience in the outside profession, and experience in the offices of the Court respectively?—I think experience in the offices of the Court would be more important and more beneficial.

59,139. And you think all the qualifications and knowledge necessary for the higher posts can be acquired by service in the lower grades in the offices of the Court?—I think so, provided a man is well educated before coming in.

59,140. At what age do young men generally enter the Sheriff Clerk's office?—About the age of 20, I think.

59,141. As old as that?—Yes.

59,142. Is that the age at which your clerks have entered?—Yes, in the case of most of them. One was younger; one of them had never been in a solicitor's office before, he came straight from school.

59,143. At present, Sheriff Clerks are appointed on the nomination of the Lord Advocate?—Yes.

59,144. And the deputes and other staff are appointed by the Sheriff Clerk?—Yes.

59,145. There is no recognised system of promotion in the service?—No, there is not.

59,146. Do you think that system satisfactory, or do you consider that there ought to be something more in the nature of a definite system of promotion?—I think there ought to be a definite system of promotion.

59,147. Will you explain your views on that point more fully?—Well, I think clerks ought to get the chance of being promoted, but that it should not be made obligatory upon them to accept it, and I think that would improve the service very much. If that were done, I think a better class of men would come in.

59,148. Have you difficulty at present in getting a suitable class of men to enter?—Yes.

59,149. Does that arise from lack of prospects of promotion, or from the level of salaries you are able to offer?—It arises from both of these causes.

59,150. I understand the salaries are limited by the total sum at your disposal?—Yes.

59,151. Do you consider that the salaries you are able to pay out of that sum are insufficient?—I think they are insufficient.

59,152. How do the salaries you pay compare with the salaries paid in the private offices of law agents?—They are certainly probably as good as those in private offices, except perhaps in the case of deputes, who might be managing clerks in law offices, and might get more; but considering their duties and responsibilities, I think the salaries are too small.

59,153. Your deputes receive salaries of 275*l.*, 260*l.*, and 165*l.*?—Yes.

59,154. Would managing clerks in private law offices receive higher salaries than that?—Yes; and it must be remembered that these deputes have the responsibility of signing very important documents, and consequences might ensue that would be very serious for them, whereas a clerk in a private office never has to do anything like that.

59,155. Returning to the question of promotion, you say that you think that clerks ought to have the opportunity of promotion to deputes' posts, and that deputes ought to have the opportunity of promotion to Sheriff Clerks' posts?—I think so.

59,156. But, as promotion would in many cases imply transfer to a different part of the country, you would make it optional whether they would accept?—That is so.

59,157. You are acquainted with the recommendation of Lord Salvesen's Committee in favour of a reduction in the number of Sheriff Clerks?—Yes.

59,158. Do you agree with that recommendation?—Yes, I do.

59,159. And also with the recommendation in favour of the creation of a special class of deputes who would be full-time officers and also pensionable?—Yes, I do.

59,160. How would you arrange the system of promotion which you desire to see established? At present each Sheriff Clerk appoints his own staff?—Yes.

59,161. How would you arrange a general system of promotion among all the different offices if the clerks in each office are appointed by its own Sheriff Clerk?—Well, I think that if a suitable man could not be found in the office when a vacancy occurred, application might be made to other counties—to other places with a similar class of work. Of course, in some of the larger towns the work is quite different from the work in the smaller places.

59,162. You mean that a Sheriff Clerk who had a vacancy in his office, if there was not a suitable man in his own office, could invite applications from clerks elsewhere?—I think so.

59,163. It is open to him to do that at present, is it not?—It is, but it is not much done.

59,164. How would you arrange that it should be more done?—It could simply be done automatically. If political appointments were not made to the principal clerkships, the thing would naturally flow up in that way.

59,165. By the principal clerks, do you mean the Sheriff Clerks?—Yes.

59,166. Supposing that the principle on which persons are selected for the office of Sheriff Clerk was altered, and political considerations no longer entered into it, how would that modify the system on which they appoint their own clerical staff?—Well, I mean that there would be a flow of promotion, and if it were known that it was confined to the one service, you would naturally have to go to another office to get assistants.

59,167. Assume that a depute in one district is appointed to be Sheriff Clerk in another district, how does that affect the manner in which the Sheriff Clerk fills up the vacancy?—He would naturally appoint as his new depute an assistant in his own office if he has

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[Continued.]

one suitable. If he has not one suitable, it should be understood that he should go to some other Sheriff Clerk's office and get one there.

59,168. What does he do at present?—He can appoint anybody he likes: he can go to a private office.

59,169. How would it be laid down that he should follow that system?—I do not think it would be difficult at all to provide for that.

59,170. But how would you do it—by legislation?—Yes, it could be done by legislation.

59,171. Would you legislate to the effect that he should appoint no one but a clerk in another office?—Perhaps not quite in that way. I think that if the Sheriff Clerk Depute had a status of his own, the thing would work naturally.

59,172. Supposing there was some local man who was not in his own office, but outside the service altogether, at present he might appoint him?—Yes.

59,173. And, in future, equally he might appoint him unless such appointments were definitely prohibited?—They might be prohibited.

59,174. What I want to arrive at is this: how do you propose to establish the system of promotion which you would like to see established?—I have not thought out the matter in detail.

59,175. So long as the appointment rests with the Sheriff Clerk, it is difficult to impose upon him a definite method of selection. The recommendation of Lord Salvesen's Committee was that the special class of deposes, who would be limited in number, should be appointed by the Secretary for Scotland, but that the remaining deposes should still, as at present, be appointed by the Sheriff Clerk. Do you contemplate going further than that in the way of removing the appointments from the Sheriff Clerk?—Yes.

59,176. What is your suggestion on that point?—Personally, I would make it the nomination of the Sheriff, and that only assistant Sheriff Clerks could be made deposes.

59,177. You would transfer the appointment of all deposes from the Sheriff Clerk to the Sheriff, and you would limit the Sheriff to the staff of the Sheriff Courts for his selection?—Yes.

59,178. Supposing there was no suitable person on the staff?—Of course, in a case like that, someone else would have to be got. Of course, he could be got from the staff of some other Sheriff Clerk's office, or an outsider might be got.

59,179. Then you would not absolutely exclude outsiders?—I would exclude them from the higher posts unless no suitable man could be got in the service.

59,180. One suggestion for meeting that difficulty is that, assuming the number of Sheriff Clerks to be reduced to, say, 15, then there should be a small committee of Sheriff Clerks for the purpose of selecting persons from the staff of the courts as a whole for promotion to vacancies in the higher posts?—I am not in favour of a committee of that sort. I think such a committee would simply be liable to be got at in the same way as Justices of the Peace are just now. I do not think it would be satisfactory. It would lead to canvassing and intrigue and all sorts of things.

59,181. You think that a committee of that kind would be more exposed to canvassing and intrigue than an individual?—Most decidedly. I think so.

59,182. Why?—Well, it is the experience one has of town councils and magistrates and licensing benches.

59,183. Of what kind of appointments are you speaking now?—Any sort of appointment they have in their gift.

59,184. Will you specify some?—For example, municipal servants and licences.

59,185. Take the case of municipal servants: are you speaking of such appointments as that of town clerk, for instance?—Yes.

59,186. In that case the appointment is made by the town council—a body of a considerable number?—Yes.

59,187. In that case there is canvassing and attempts are made to bring personal influence to bear?—Unquestionably.

59,188. Supposing that appointment were in the hands of a single person, would there not also be such attempts?—No, I do not think there would. Personally, I have heard suggestions made that the Sheriff in Scotland ought to have those things in his hands—that licences ought to be taken out of the hands of the magistrates altogether on that account.

59,189. When you are speaking of licences you are not speaking of appointments?—No, but the same conditions apply. I put them in the same category.

59,190. Returning to the Sheriff Clerks; at present the Sheriff Clerk of Lanarkshire, say, has the appointment of the staff in Lanarkshire?—Yes.

59,191. Supposing that he and two others of his colleagues have those same appointments, do you anticipate that those three persons would be more exposed to influence and pressure than one person?—I think so. It would go by voting, and I think attempts would be made to get over the majority. Personally, I think it is unnecessary. I would rather leave it to the higher officials we have at present—the Sheriff, the Lord Advocate and the Secretary for Scotland, I think they are far too high to be got at in that way.

59,192. Which of those three officials do you think ought to appoint the staff in the Sheriff Courts?—As I have said in my précis, I think the Sheriff ought to nominate the depute clerk.

59,193. And who would appoint the remainder?—Those coming in at the bottom of the service ought to be appointed by the Sheriff Clerk as at present.

59,194. Would the Sheriff Clerk, as at present, promote them until they reached the grade of depute?—Yes, I suppose so.

59,195. Then your system would be this—first, appointments and promotion up to the highest posts below the grade of depute would be made by the Sheriff Clerk himself?—Yes.

59,196. And when it comes to the appointment of the ordinary depute then the appointment would be made by the Sheriff?—Yes.

59,197. And when it comes to the appointment of the special class of deposes or of the Sheriff Clerk the appointment would be made by the Secretary for Scotland?—Yes.

59,198. The Sheriff then would only have the appointment of the deposes other than those of the special class?—Yes.

59,199. Would it be worth bringing him in for that?—I should think so. I do not know any better system.

59,200. You would still be left with the difficulty that the appointments to all posts except the Sheriff Clerk and the special class of deposes would be by persons who had in view only their particular district of Scotland and not the whole of Scotland?—Yes.

59,201. Would that not create an obstacle to the establishment of the general system of promotions and transfers which you favour?—I do not think it would.

59,202. You think you could generalise it sufficiently by authorising or instructing those persons to obtain applications from other districts if they had no suitable person in their own district?—Yes. I think it might be made a condition that the higher posts should be recruited from the staff in the service, and then I think it would work automatically.

59,203. At present none of the staff of whom we are speaking are pensionable?—No, none.

59,204. Do you consider that any of them ought to be?—I think they all ought to be—at least after a few years' service at the bottom.

59,205. The whole of the deposes and the whole of the clerks after a few years?—I think so.

59,206. Do you include persons who are not giving their whole time to the service?—I see no difficulty in including them as well to the extent to which they are paid. I do not see that that would be a difficult thing.

59,207. That would be very exceptional?—Well, I cannot see any difficulty in that really. If a man has a small salary as Sheriff Clerk and a salary as Clerk of the Peace and something else, I do not see why he should not be pensioned on his salary as Sheriff Clerk.

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59,208. You mean that although he would not be giving his whole time still his pension would only represent that part of his time which is covered by his salary?—Yes.

59,209. Under the system you suggest, what protection would the State have, for instance, against the appointment of a person in bad health who would become eligible for a pension in a few years?—Of course that position would be open to emerge as in the Civil Service just now.

59,210. In the Civil Service the appointment is made by a central authority and the Commissioners examine the health of the candidate and satisfy themselves in other ways that he is a proper person to be appointed. What safeguard would you have in this respect if the appointments remained with the Sheriff Clerks?—They might be examined when they came into the Service, not after it.

59,211. You suggest that they should be scrutinised as to their health and character, and so forth, by the Civil Service Commissioners on entering the service?—Yes, or after a year's probation.

59,212. Before being made pensionable?—Yes.

59,213. Would you in that case suggest an age limit for retirement?—Yes, I would.

59,214. What age would you suggest?—70, I should say.

59,215. That is higher than the age in the Civil Service generally?—Yes, but experience counts for much in work of that sort. I think 65 is too early.

59,216. Would you place restrictions upon private practice by Sheriff Clerks and their staff?—Certainly, except the holding of such public appointments as do not conflict with their duty.

59,217. You would limit it to public appointments?—Yes, certainly.

59,218. Would you allow them to act as auditors?

—Yes, I should regard that as an impartial public appointment.

59,219. (*Lord Dundas.*) I see in your précis of evidence you say you do not think that the Civil Service system would be suitable for Sheriff Courts?—I do not think so.

59,220. You say this: "I think all that is necessary to have a perfectly contented and efficient service is to give security of tenure, reasonable salary, with periodical increments rising to a fixed sum, and pensions on retirement, with, of course, the opportunity of promotion on vacancies occurring"?—Yes.

59,221. With regard to the system of promotion by transfer, I suppose the existing vacancies are very few in the course of the year?—That is so.

59,222. And I dare say also, to a certain extent, the expense of removing from one place to another might be a serious matter for a poor man?—Yes, in the lower grades it might be.

59,223. I do not quite understand what it is that you want. Do you want to see something like a Bureau of Information established?—I do not think it would work in that way. I have known of two or three instances where Sheriff Clerks have written to our office in Edinburgh asking for a suitable man for a depute clerkship. I have known of three such cases.

59,224. I want to get from you for my own information what measure of reform you want to see instituted in the matter of promotion?—It is simply to prevent outsiders coming in on our top, either as Principal Clerks or as Sheriff Clerks Depute.

59,225. Well, there is nothing that would require an Act of Parliament?—No, probably not.

59,226. Would not a little more activity among the members of the staff, and, if necessary, an interchange of ideas, meet the situation?—Yes, certainly; but then each Lord Advocate or each Secretary for Scotland would take his own view as to whether he should make political appointments or not.

59,227. Apart from the introduction of outsiders, there is actually little to be done?—Yes, except the pay.

59,228. The real thing that you are anxious about, I think, is not so much the difficulties about promotion but the matter of a pension?—That is so.

59,229. Well, if you do not want a cast-iron Civil Service system, how are these pensions to be obtained?

—I do not know. Probably some modification would be necessary just now owing to the number of men who have come in by political appointments late in life.

59,230. Apart from political appointments at the moment, have you thought out at all on what basis the scheme of pensions could be established?—I think it might just be the Civil Service scheme in force just now.

59,231. Of course the Civil Service scheme is an existing thing?—Yes.

59,232. To what extent do you contemplate that any of your staff should become Civil servants with a view to pensions?—I suggest simply a short statute making that Act applicable to them and giving them security of tenure and fixing their salaries.

59,233. Has anyone drafted a Bill for that purpose?—Yes; I think there is a draft Bill.

59,234. Do you know where it is?—I think the Sheriff Clerk Deputes have drafted a Bill.

59,235. Do you think they have got the length of putting something on paper?—Yes.

59,236. (*Miss Haldane.*) Is the typist that you spoke of in your office a woman or a man?—A woman.

59,237. You said she was a temporary typist. Do you mean that she is not constantly employed?—No; she is only there in place of a man who is away as a non-commissioned officer in the Territorials.

59,238. Does this typist do the work that he did?—No, not at all; she could not do it. She does not sit in the public rooms of the office; she sits in a private room. I should not like to have a woman sitting in the public rooms of the office; I do not think it would do.

59,239. Who does your typing ordinarily?—All the clerks do it more or less.

59,240. And is she paid 60l.?—No, she is not. She gets 15s. a week. She is quite a young girl and not an experienced typist.

59,241. (*Sir John Kempe.*) There is one sentence in your memorandum I would like to refer to. You say, "The present system of organising is fairly satisfactory, the only difficulty felt so far as I am aware being the arbitrary power which the Principal Sheriff Clerk has in dealing with his deputes and clerks. In some instances this power is said to have been exercised in a harsh, oppressive, and unreasonable manner, without any right of appeal on the part of those aggrieved." Is that a general complaint?—No, it is not general. I have known of three or four cases.

59,242. What kind of ill-treatment?—In one case the solicitor who was the agent for the candidate was appointed Sheriff Clerk, and he immediately dismissed the depute who was there before him. He took some umbrage at him, he did not like him, but he had absolutely no reason for it. Of course the man is thrown out and absolutely ruined.

59,243. Of course it is a common instance in other professions?—The public service is not like the professions. A man cannot start as a Sheriff Clerk or a Sheriff Clerk Depute outside. He acquires a knowledge of that work and he cannot do anything else.

59,244. There is no reason to complain generally?—It is not general. I think I have known of five or six all over Scotland, but it is always a fear that is present with everyone just now.

59,245. (*Mr. Graham Wallas.*) You spoke of something that would happen if the system of appointing political agents was stopped?—Yes.

59,246. May I take it from you that it is well understood that when a vacancy occurs in the office of Sheriff Clerk the political agent for the district of the political party then in power is the person appointed?—That used to be the case; it is not always the case.

59,247. But that prevails to a very large extent at present?—Yes.

59,248. Then if the Sheriff Clerk is expected to die, for instance, there will be competition for the office of local political agent, which may have nothing to do with mere keenness of political feeling?—Undoubtedly that is so.

59,249. And such a political agent will fight for his party hard when he is looking for a comfortable

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position for himself?—Yes; as a rule he is not a sound lawyer or a sincere politician, but just an adventurer. I must say at one time there was good reason for appointing a lawyer to be Sheriff Clerk, because he had to act as legal assessor of the Court. The Sheriff was not a lawyer then. I am going far back. That is the explanation of appointing practising solicitors as Sheriff Clerks.

59,250. But there never was any good reason for appointing a man who was neither a good lawyer nor a sincere politician?—I should think not.

59,251. When he is once appointed, is it your experience that he goes on being an active politician?—No, I should think not.

59,252. He has done his work?—Yes.

59,253. In some cases does the Sheriff Clerk Depute, who desires to become Sheriff Clerk, become a very active politician?—He could not; he is disfranchised by statute.

59,254. Whenever you come across a case of a man being appointed Sheriff Clerk from the position of Sheriff Clerk Depute, he is appointed without political considerations?—Yes.

59,255. You give us here a case, I understand, of a clerk of yours aged 50, who is in receipt of a salary of 60*l.* a year. Is he a full-time clerk?—He is a tem-

porary man. I did not explain that. I have not got the office fully organised yet, and that man is temporary. He does not intend to stay; he is here partly owing to the war.

59,256. You told us there were cases of harsh treatment by Sheriff Clerks of their clerks?—Yes.

59,257. Are there cases in your memory where a clerk has been unreasonably dismissed in order that a relative of the new Sheriff Clerk might be appointed to the post?—I cannot say I know of any cases of that sort.

59,258. It is either political or personal prejudice that has been to blame?—Yes.

59,259. (*Sir Donald MacAlister.*) A Sheriff Clerk who is appointed politically at once has a certain patronage to exercise?—Yes.

59,260. Is it the custom for him to exercise that patronage for political considerations?—I never knew of any case of that sort. The tendency is for a Sheriff Clerk appointed for political reasons to make the office a sinecure, to leave the work to his depute.

59,261. But in appointing deputies or assistants, and so on, it is not said to be the custom that he should make political appointments?—No, I cannot say that it is. I do not know of any instances.

Mr. JAMES FISHER, called and examined.

59,262. (*Chairman.*) You are a second class clerk in the office of the General Register of Sasines?—I am.

59,263. Does your evidence represent the views of the second class clerks generally?—So far as I am aware, it does.

59,264. Are you commissioned by the whole body to give evidence?—We called a meeting the other day and I was so commissioned.

59,265. The Commission have already had evidence as to the nature of the work performed in the Sasine Office, and to some extent as to the qualifications required of the staff, so that we need not ask you to go into these points, but I see in the statement you have given us you recall a sentence from the report of Lord Low's Committee?—I do.

59,266. That sentence is to the following effect: "We find it right to state that we are satisfied, for all the most important work in the Sasine Office, the clerks employed should possess adequate knowledge of conveyancing. A knowledge of conveyancing is just as necessary for abstracting a writ, for the Abridgements and for the Search Sheets, as for drafting it, and anyone who does not possess that knowledge cannot make a reliable search either from the Abridgement or from the Search Sheet." You base your representations on the facts which are represented by that extract from the report of Lord Low's Committee?—We do.

59,267. The method of entrance to your class is by competitive examination?—It is.

59,268. And for admission to that examination certain qualifications of previous service in a Law Agent's office are required?—They are.

59,269. What are they?—Nowadays one requires to have five years' service in the office of a Scotch Conveyancer, and the candidate must hold the Intermediate Leaving Certificate, or have passed the Second Law (General Knowledge) Examination. The alternative is that the candidate must be a graduate of a British university.

59,270. And in that case he has to serve three years?—Yes.

59,271. You compare your position with that of second division clerks and the Civil Service generally?—Yes, we do; but would you allow me to point out that it is not more than a comparison, because we hold that we are better than second division clerks. What I mean is that we do not desire to be made second division clerks. We hold that we are entitled to special treatment in respect that our office is a professional office, and the qualifications are higher than are required for second division clerkships.

59,272. As regards the scale of pay, your point of entry is slightly higher?—It is; it is 10*l.* higher.

59,273. And the age of entry is also higher?—Yes, it is three years higher.

59,274. Your maximum is 50*l.* lower than the maximum of the second division?—Yes.

59,275. In order to reach that maximum the second division clerk has to pass a barrier?—I understand there is such a barrier. There is no examination, and I fancy it is just a proficiency barrier.

59,276. In the Sasine Office, above the second class, there are other classes?—There are.

59,277. There are 13 first class clerks with salaries rising to 400*l.*, six chief clerks with salaries rising to 450*l.*, and six assistant keepers with salaries rising to 575*l.*, and one accountant with a salary rising to 520*l.*?—Yes.

59,278. These posts are all filled by promotion from the second class clerks?—Yes.

59,279. In the case of the second division clerks, have they any definite sphere of promotion corresponding to that?—I understand their sphere is quite as large as ours. On that point, of course, I do not speak from special knowledge, but they do fill, at all events, a considerable number of higher posts.

59,280. Is it not the case that the second division clerks have no right to promotion, and no definite chain of promotion higher than their own class, and that in most departments the only posts that are normally filled from the second division are certain staff posts, as they are called?—As I said, I do not speak with any knowledge, but I certainly understand that the second division clerk might rise considerably, and does so rise. Of course, we of the second class in the Sasine Office do not have the right to fill those posts. What I mean is, although these higher posts are certainly filled from the second class clerks, yet men are passed over and may not fill any of these higher posts.

59,281. That is to say, that the individual is passed over, but that the posts are filled from the class?—Yes, that is so.

59,282. Have there been any cases in your experience in which men have been introduced from outside to the higher posts?—No.

59,283. So that they are regularly filled from your class?—Yes.

59,284. The presence of a considerable number of higher posts, which are regularly filled by promotion from the lower class, has a direct bearing on the question of whether the scale of pay of the lower class is adequate?—Yes. Still, in that connection might I draw your attention to a part of the statement which we sent in where we say that there will be a barrier

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within a short time—a barrier in the way of the second class rising to fill those higher posts. That barrier arises in this respect, that about the year 1899 a considerable number of men were brought in—some 14 men—to fill up the second class ranks. These men were brought in within two or three years. Now, they are pretty much of equal age, and the number of vacancies are fairly few. That means that there is certainly a barrier to the promotion of those men who subsequently entered the office. All these men cannot be promoted; they will have to stand at their maximum of 250*l.* for a considerable number of years.

59,285. That is to say, owing to the accidental circumstance of a number of men being brought in at once, there will for a certain period be slow promotion?—Yes.

59,286. It equally follows that when that body of clerks arrive at the time for retirement there will be rapid promotion?—That is also true.

59,287. These accidents are liable to occur in all offices?—They unfortunately occur to a considerable extent in our office. That is one of our hardships.

59,288. Your particular suggestion is that the maximum of the second class should be raised to 300*l.*?—That is the suggestion we put forward here, but if you will permit me I should again like to emphasise the suggestion that special treatment might be accorded to our particular office, seeing that it is a special office with special qualifications.

59,289. Special treatment of what kind?—Well, with regard to the minimum salary and with regard to the maximum salary.

59,290. You have mentioned the maximum salary, but what is the special treatment as regards the minimum salary?—What I mean is just this, that the recent change in the examinations heightened the qualifications necessary, as I pointed out a moment ago, and what I suggest is that the office be treated altogether as a law office, and, looking to the point of age—20 to 25, the increased age—it would be better to have no reference at all to the second division scheme, but give us an increased minimum salary, possibly 100*l.* rising to at least 300*l.* What I want to bring out is the special qualifications that our office requires. We do not want to put the thing too high, and therefore we suggest 300*l.*, being the maximum of the second division; but with the increase in the qualifications which has recently taken place, I do not think I am putting it too high to suggest that we should get special treatment. It is a professional office, a law office. It does work, which, I believe, is on much the same lines as the work of the Land Registry Office in London. Now, if that be so, the question arises, why should the Sasine Office clerks be treated on different lines? For example, in the statement, we say that a certain number of us are qualified solicitors, and that a certain number have taken the law classes at Edinburgh University. Now, neither of these qualifications is required of a second division clerk, and I think that the second division clerk has no university experience at all, so that on these grounds I think I might reasonably suggest that we should be treated as a separate and professional office.

59,291. The candidates for admission to these posts have necessarily served in a law agent's office?—Yes.

59,292. Have you compared the scale of salary which they receive with the salaries they might expect to receive if they had continued in law agents' offices?—Well, of course, undoubtedly in that respect they are better in the Sasine Office.

59,293. They are much better, are they not?—Yes, but might I point out that this is the Civil Service. We all know that the law clerk, in Edinburgh at all events, is very poorly remunerated, and it would, I think, if I may say so, be wrong to institute a comparison between the solicitor who has gone into the Sasine Office, and a solicitor who stays on as a clerk, or practises as a solicitor outside the Sasine Office.

59,294. For what reason?—Because of the very poor return which the men in outside offices get. We know, for example, that in Edinburgh the average salary in a law office is 70*l.*, 80*l.*, or 100*l.* at the most. A man might remain at 100*l.* for a great number of years.

59,295. Is there any difficulty in obtaining men for that employment at those rates?—That is the unfortunate thing. There is no such difficulty, for this reason: Edinburgh having the law classes, men are glad to come from the country for the sole reason of gaining experience while they are attending the law classes. I think that is one reason why the rate of salary in a law office in Edinburgh is so low.

59,296. Such men are attending the law classes with what object in view?—Of qualifying as a solicitor.

59,297. But then the salaries continue throughout their service, not merely while they are qualifying?—Of course, there is always a continual inflow and outflow of these men.

59,298. Where does the outflow go to?—The country districts all over Scotland.

59,299. Are they men who practise as solicitors in country districts, or who serve as clerks in solicitors' offices in country districts?—In both capacities.

59,300. Do they get higher remuneration there?—Yes.

59,301. The rate in Edinburgh is low, because of the number of men coming into town to go to the law classes?—Yes.

59,302. And who maintain themselves by serving in a solicitor's office?—Yes.

59,303. (*Sir George Paul.*) If they come to attend the law classes, of course they are junior men?—Yes; but might I just say again that I hardly think it right to institute a comparison between the Civil Servant in the Sasine Office and men in law offices, because the men in law offices, as I have just remarked, do not get, from the financial point of view, fair treatment, but the Sasine Office official expects to be treated fairly.

59,304. Unless you have some regard to the rate of remuneration in the open market, how are you to arrive at a standard for Civil Service remuneration?—Of course, if we go into that aspect of the question, we know quite well that the ordinary clerk is very badly remunerated, but we find the second division man rising from 70*l.* by annual increments to 300*l.* per annum. Surely we might as well institute a comparison there, and we should find, I feel sure, that the second division clerk is much better treated than an ordinary clerk in an outside office.

59,305. (*Mr. Boutwood.*) With regard to the point that you have been talking about just at the end of your evidence, the rates of remuneration in outside offices in Edinburgh, I do not know how far you would agree with this, that the State in determining the salaries of these servants, although it has to pay some attention to the general rates obtaining for similar work outside, may properly be asked to pay very much higher rates—that the market rate is not the sole thing that might reasonably be supposed to govern the action of the State?—Yes, I think you state it fairly.

59,306. Coming to the question of the second division and the clerks in the Sasine Office, I see here at the top of your statement that there is a Keeper and six Assistant Keepers and an Accountant. Well, now, are those eight posts filled by promotion from the lower grades, or from outside?—They are filled by promotion from the second class clerks.

59,307. (*Chairman.*) Not the Keeper?—No.

59,308. (*Mr. Boutwood.*) All except the Keeper?—Yes.

59,309. That leaves you with 48 second class clerks and 26 possible promotions?—That is so.

59,310. I do not know whether your knowledge of the second division would be sufficient to confirm this statement, that the prospects of the second division in the Civil Service depends wholly on whether the person is in one of three classes of offices—whether, in the first place, he is in an office which has a professional higher establishment, in which case he probably has no chance of promotion; in the second place, whether he is in an office where there are Class I. posts, in which case there is a possibility of promotion, which may or may not be realised; and, in the third place, whether he is in an office constituted on what may be called a clerical basis, somewhat like this office of yours, where the whole office from top to bottom, with the exception

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perhaps of the top post, is filled from the lower grades. I suppose it is the latter sort of office that you really have in mind in making your comparison?—Yes. Of course, in the first class of office you mentioned, there is promotion.

59,311. No. The first class of office is where the higher class is strictly professional, barristers, as a rule. In such cases there is no promotion. Well, that, of course, is not analogous to yours at all. The second class is where they have the university class, in which case there is a possibility of promotion; and the third group of offices is where the whole of the higher establishment is recruited from the bottom by promotion. The last case is the one that is analogous to your office?—Yes.

59,312. So that really the mere fact that you have this definite prospect of promotion does not spoil the comparison you make with the second division, because, to quite an appreciable extent, the second division have similar prospects also?—Yes. Might I suggest again that with regard to the second class of office where the higher staff is of a professional nature, that would suit our case, because although we have here instituted a comparison with the second division, yet our work is of a professional nature.

59,313. (*Sir George Paul.*) You said there was some difficulty in promotion to the higher places owing to people being brought in from outside to the second class. How did that arise?—About 1899 our office was being reconstructed. Prior to that a considerable number of temporary men, not Civil servants, were brought in to bring the work up to date. These men, after being in the office for some time, were in 1899 taken on to the staff.

Mr. JAMES A. FLEMING, K.C., called and examined.

59,322. (*Chairman.*) You are Sheriff of Fife and Kinross?—Yes.

59,323. Before that you were Sheriff of Dumfries and Galloway?—Yes.

59,324. Will you tell us what the staff is in each of these sheriffdoms?—I am sorry I cannot give the exact number of the staff.

59,325. I mean specially the higher staff?—In Dumfries and Galloway there are three counties. In Dumfries there is one Court-house, with one Sheriff Clerk, and one Procurator Fiscal, with the various staffs. In Kirkcudbright there is also a Court-house with a Sheriff Clerk, a Procurator Fiscal and staffs. There is also a Court at Maxwelltown, but it is only held every fourth week, and is negligible. No separate staff is kept there. In Wigtown, which is the smallest of the three, there are two Courts, one at Wigtown, the county town, and one at Stranraer. In Wigtown there are the Sheriff Clerk and the Procurator Fiscal, with staffs, and at Stranraer there are the Sheriff Clerk Depute and Procurator Fiscal, with staffs.

59,326. So you have three Sheriff Clerks and one Sheriff Clerk Depute?—Yes, what I call a real Sheriff Clerk Depute, a man on his own. There is, of course, always a Sheriff Clerk Depute at each Court to act in the absence of the Sheriff Clerk, but at Stranraer the Sheriff Clerk Depute acts separately. The sheriffdom of Fife and Kinross comprises these two counties. In Fife there are three Court towns, the county town of Cupar, Dunfermline, and Kirkcaldy. At Cupar there are a Sheriff Clerk with, of course, his depute, and the Procurator Fiscal, and their staffs. At Dunfermline there are a Sheriff Clerk Depute and his staff, and a Procurator Fiscal with his staff. At Kirkcaldy there is a Sheriff Clerk Depute, but, as there is no criminal work there, there is no Procurator Fiscal.

59,327. Is Kirkcaldy in the Dunfermline district for criminal work?—The criminal work for Kirkcaldy goes to Cupar. In Kinross, which is a separate county, there are a Sheriff Clerk and a Procurator Fiscal with their staffs.

59,328. Is the volume of work greater in your present sheriffdom than in your former sheriffdom?—Yes, considerably greater. In Dumfries and Galloway the work was rather below the average

59,314. Was that for the Search Sheet?—Just the general work of the office.

59,315. Which had gone into arrear?—The staff was reduced before this time and these temporary men were brought in by the then Keeper to cope with the work, and as it was afterwards found that it was better to have these men to keep the office on a proper footing, an examination was instituted, not a competitive examination, but a qualifying examination, and they were taken on to the staff. The result is that we are now suffering, or will suffer, in a very short time.

59,316. Were you in the office then?—I was not.

59,317. (*Sir Donald MacAlister.*) There are 48 of the second class clerks?—Yes.

59,318. And 27 posts, up to the Keeper, to which they may aspire if they are found good enough?—26, I believe.

59,319. Do you know of any second division office where the number of posts to which the second division clerks may aspire is as high as that?—No, I do not.

59,320. Is not that one thing which gives the Sasine Office quite a special position?—Yes, but there you have only 26 as against 48. These men who are fully qualified men, and who do not get posts, have to stay at 250*l.*

59,321. There is no second division clerk that I know of who has got such a numerical chance of promotion?—Yes, but there are no second division clerks who suffer by having to stay at 250*l.* per annum, and there are no second division clerks, I maintain, who have the qualifications of a second class clerk in the Sasine Office.

in all the Courts. It was very small in Wigtown, a little larger in Stranraer, and a little larger in Kirkcudbright. Dumfries is the only Court-town where there is anything like a volume of work. On the other hand, in Fife and Kinross sheriffdom, there is a good amount of work in all three of the Fife towns. Dunfermline is exceptionally busy; Kirkcaldy is also a busy place; and Cupar, because of the amount of county work done there, it being the head town, is also very busy.

59,329. In Fife there are three Sheriff Clerks Depute in all?—Yes, one is at the county town with the Sheriff Clerk. The other two conduct their business at their own courts.

59,330. Do they give their whole time to the work?—The Cupar Sheriff Clerk Depute gives his whole time. In Kirkcaldy and Dunfermline there is no restriction in any way, but, as a matter of fact, they have not time for outside work, so they give their whole time. In Kinross there is no restriction, and the Sheriff Clerk there does a considerable amount of other work. As regards that outside work, he is County Clerk, Clerk of Lieutenancy and Clerk of Peace, Clerk to the Income-Tax Commissioners, and Clerk to the Kinross School Board. He also carries on business as a law agent. Of course, his business as law agent is restricted, because he is not allowed, directly or indirectly, to practise in the Sheriff Court, so he cannot do Court business, but he does a considerable amount of conveyancing and estate business.

59,331. Do you find that the staffs are thoroughly satisfactory as regards the manner in which their duties are performed?—Entirely so.

59,332. You are acquainted with the evidence of Sheriff Maconochie?—Yes, I read it.

59,333. Do you agree with it?—Generally, I concur in it. I concur in it absolutely as regards Procurators Fiscal.

59,334. In the case of Procurators Fiscal, do you think the present system of appointment is the right one?—I think so.

59,335. You do not think it is practicable or desirable to diminish the numbers of Procurators Fiscal?—I agree with Sheriff Maconochie. I think it is extremely undesirable in the case of the Procurator Fiscal, who should give his personal attention to the

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very important matter of detection of crime and the preparing of cases, to give him too wide a district, so that he cannot give his personal attention to cases occurring in the extreme margin of the district.

59,336. The result of that is that in many districts there is not enough work to occupy his whole time?—That is so.

59,337. In these cases do you consider he should be allowed to undertake other professional work?—I have no doubt about that.

59,338. You see no objection?—That is so. I see a great advantage in his being allowed to do other work, I will give you an instance of that. In Dumfries, which is a large county, a Procurator Fiscal was appointed by Lord Advocate Balfour (I do not recollect the date), just after the agitation got up about Procurators Fiscal being agents for landlords in crofting counties, and, unfortunately, the restriction was extended to Dumfries. Dumfries is a very law-abiding county, and there was very little work for the Procurator Fiscal, but he could do nothing else. The result has been that a very good man indeed has rusted, and he is a very much older man than his years, and is really now barely fit for his work. I put it down to the fact that he had nothing to occupy his mind and keep him alert.

59,339. We have heard that in recent years appointments to the larger posts of Procurators Fiscal have been made to a greater extent than in the past by transfer from one place to another; do you think it is desirable to extend that?—I think it is desirable. The transfers that have been made have been extremely good appointments, if I may venture to criticise those in authority.

59,340. One witness has suggested to us that the value of Procurators Fiscal depends so largely on their knowledge of the locality and the local people that transfers may not always produce the best results?—That is quite so, but you must not take that as barring transfers altogether. For instance, a Fiscal who has been working in a West Highland county would be of very little use if taken away to a county in the south of Scotland or to a town. His experience, his local experience, and his usefulness, and even his language would be lost, if he were taken to a different place.

59,341. Turning to the Sheriff Clerks, do you agree generally with Sheriff Maconochie's remarks?—Yes.

59,342. Are there any points you wish to emphasise otherwise than he has done?—I think he attached rather more importance than I would to the desirability of previous official experience. I cannot help thinking that in the smaller towns the desirability is rather in favour of legal experience.

59,343. By legal experience do you mean experience in a law agent's office?—A knowledge of law. I think he should be a qualified agent, the reason being that unless you get a man who has a knowledge of the law or has official experience, he had got to pick up one or the other. I think it is rather more likely that a man, by picking up, would get official experience rather than a knowledge of the law. I think he should be trained to law, because he could pick up the official experience.

59,344. Do you agree with the view that the higher posts of Sheriff Clerk and Sheriff Clerk Depute should as a rule be filled by promotion from among the staff of clerks?—If it can possibly be done.

59,345. We have been told that the staff is at present recruited at an early age by boys fresh from school; would it be possible for them, if that age of recruitment continues, to acquire the law agent's qualification, which you suggest is necessary for the higher posts?—I think it might be, if the Sheriff Clerk were a qualified law agent and allowed to practise—of course the limited amount of practice, excluding Court work. Then he could take the boys in as apprentices, and, after serving their apprenticeship, they could go through their examination and qualify. So long as the Sheriff Clerk is not a law agent, any apprenticeship that may be served with him is of no use for the law agent's examination.

59,346. That, in many cases, would cut the staff off from promotion?—Yes it would cut off the staff

entirely, where the Sheriff Clerk's whole time is taken up, and there are many cases where the Sheriff Clerk's whole time should be taken up with his duties.

59,347. Are you familiar with the recommendations of Lord Salvesen's Committee on Minor Legal Appointments?—Yes, I have read the recommendations as regards Sheriff Clerks Depute.

59,348. That Committee recommended that a person who has served as clerk in a Sheriff Clerk's Office not less than five years should be eligible for promotion to the office of Sheriff Clerk Depute; also that Sheriff Clerks Depute who have served for five years as such, or ten years in a Sheriff Clerk's office, two years of which have been served as Deputes, should be eligible for promotion to a Sheriff Clerkship; do you agree to these recommendations?—Yes, to this extent, I quite agree that anything I have said in regard to the desirability of their being law agents may be restricted to these places where there is not full time worked. In regard to part-time appointments, an opportunity should be taken to secure law agents.

59,349. In the case of whole-time appointments, do you agree that the conditions suggested by Lord Salvesen's Committee would be sufficient without absolutely requiring a law agent's qualification?—Yes.

59,350. Would you give the Sheriff Clerks' staff greater fixity of tenure than they have at present?—I think the Sheriff Clerks Depute, especially those acting in Courts of their own, should not be left so much to the mercy of a new Sheriff Clerk as they are at present. Their appointment falls with the death or resignation of the Sheriff Clerk, and the new Sheriff Clerk can appoint them or not as he pleases. That is a distinct hardship. The alteration I suggest is very small, but it is that, as is the case with many of these subordinate appointments, the appointment should subsist, to fill up the gap, till the new Sheriff Clerk is appointed, and the new clerk should only have power to recall by permission of the Sheriff. You may say the Lord Advocate or the Secretary for Scotland, but the inevitable result would be that he would ask the advice of the Sheriff, and I do not see why we should go round about when we can go straight.

59,351. We have had evidence about the promotion in the Sheriff Court offices by transfer from one place to another. The suggestion has been made that all vacancies should be filled up from the staff already in the office, if suitable persons are available, and if, in the particular office, no suitable person is available, that the appointment should be made, as a rule, by transfer; do you think that is a practicable system?—It is very difficult to say. My experience in the smaller places is this—the boys are always brought in at an early age. They serve their time of apprenticeship, or first two or three years of office work, at a merely nominal salary of 10*l.* or 15*l.* Then comes the termination of that period, and the question is, what are they to do? There is a gap, and there is no money to keep them going with an increase of salary, and there is no vacancy in the next grade, which runs from 50*l.* to 60*l.* or 70*l.* What they do is to live off, and we very seldom get a boy who sticks to the Service, that is to say, who, when he has got up to his 25*l.* a year, gets an opportunity of stepping into a regular clerkship. It is a very small Service, and there are very few vacancies in it. In regard to transfers, I am afraid I do not quite see how any system of transfer would increase the number of vacancies and so increase the number of promotions. It would be better for the promising clerk, because he would get more rapid promotion; but any step he got would block another man for promotion. It would simply give a promising boy a rapid promotion. To that extent it is good. You get a better man; but, on the other hand, it will not increase the promotion.

59,352. It might equalise promotion?—I am afraid I do not understand what you mean.

59,353. I mean that by accident promotion might be much more rapid in one district than another?—Yes, it might.

59,354. If there were transfers it might equalise it?—Yes, in small places there might be a number of deaths, and that would equalise it.

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59,355. As regards increasing prospects of promotion, the recommendation of Lord Salvesen's Committee is that vacancies in Sheriff Clerkships should, as a rule, be filled by deputes, and vacancies among deputes should be filled, as a rule, from the staff; that would increase the vacancies?—Yes.

59,356. Are you in favour of that recommendation?—Not as it is framed. As regards that I cannot say I am. I do not think that those who have the power of appointment should be restricted in the selection of a Sheriff Clerk to a person who has already been in the Sheriff Clerk's service. I think it would be rather unfair to them to have their hands tied by having to select a man already in the Service when there was an excellent man not in the Service and worthy of the place. There is another matter which should be considered as regards this question of promotion. If a man is promoted by transfer, then, presumably, he is transferred from one place to another where the salary is greater. To make it worth his while to go from one place to another, the increase of salary must be sufficient to cover the cost of removal in a very short time. There are very few cases where a sufficient increase could be given to do that. The cost of removal is a serious matter, and, as my Lord Dundas knows, I have some experience of the removal of bank agents.

59,357. (*Lord Dundas.*) Yes?—I fancy, till you got up to the higher transfers from Sheriff Clerk Depute to Sheriff Clerk, you would find difficulty in making people see it was worth their while.

59,358. (*Chairman.*) They might have the option?—Yes.

59,359. You mentioned bank managers; is it the practice to promote by transfer in that service? It is frequently done. It is more often done with a bank accountant or teller being promoted to be bank agent (as we call them in Scotland) in a smaller place.

59,360. There might be a similar process in the Sheriff Clerks' service?—Yes, but the difficulty is cost of removal, which, I may say, is borne by the banks out of a special grant for it.

59,361. If the system is to work freely and fully, you suggest some grant for removal expenses would be necessary?—Almost necessary. You might lose a man, who was worthy of promotion to another place, through that disadvantage.

59,362. You mentioned that boys in the Sheriff Clerks' offices frequently go off to other places; does that lead to difficulty in providing suitable staff for the offices?—Yes. The difficulty is greater in the smaller towns, and it is increased when you cannot hold out the inducement of making them apprentices. If a boy can become a law apprentice you can nearly always get him, even in the smallest town.

59,363. That difficulty would be diminished if they had better prospects of promotion?—Naturally, but that would carry with it a larger Vote to run the Service.

59,364. You said you thought it would be unfair to the appointing authority, if their hands were tied in any way in regard to appointments to higher posts?—Yes.

59,365. The present freedom of appointment results largely, does it not, in appointments being made on political grounds, for services rendered?—I think it does.

59,366. We have heard from many witnesses that that is well known?—I have known of political appointments and appointments that were not political, but entirely on merits.

59,367. When you say it is undesirable to tie the hands of the appointing authority, do you mean it is desirable that they should be at liberty to apply the present principles?—That is so. I have seen appointments made from outside the Service which have been most excellent appointments, and I should regret if the Sheriff Court should be deprived of getting these people by the appointing authority having his hands tied.

59,368. Do you think a political appointing authority is a desirable one?—I really cannot say. I should think the natural thing, when the appointment is made

by a person who has got his own appointment through politics, is to let politics weigh a little bit. I can only judge by results. In my experience I have had very little to complain of in any political appointment, and the little I have thought I had to complain of has turned out to be better than I expected.

59,369. Does the opinion you express go further than saying that the system has produced better results than you might expect?—If you assume it is a bad system.

59,370. Is it your opinion that it is a bad system?—No, I do not think it is. It is a system that, from what I have heard, might lead to undesirable appointments, but, on the whole, I do not think it is a bad system.

59,371. Apart from the question of whether a person is competent nor not, is it desirable that political services should lead to advancement?—Speaking generally and coming back to principle, I should say no. The only principle that should obtain is that the best man should be appointed to the place.

59,372. That is the natural and obvious principle that should be followed?—Yes. You asked me as to the desirability of giving a free hand to appoint from outside the Service, and I should supplement my answer by this. If, as I think is the case, there are many Sheriff Clerkships and Procurator Fiscalships where there is not enough work to take up the man's whole time, and it is desired to appoint men with outside interests and work to keep them alert, you must almost necessarily go outside for appointments. The reason is that you appoint as Sheriff Clerk a man who is already a law agent, or in some other work, or holds some other appointments. He is a desirable man, because you have a man who has his mind fully occupied, thereby enhancing his value, but if you restrict yourself to the Service, then you have either got to transfer from another place or promote in that particular place some man who has been acting as Sheriff Clerk Depute, or a clerk who has not had the opportunity of working outside or of getting outside work. Therefore, I think in these smaller places you should have the power to appoint an outside man. Of course my object in all this is to secure efficient service in the Sheriff Courts. I am satisfied that you will thus get efficient service and find a man whose mind is fully occupied to keep him alert. If you do not find such a man you expose the one you appoint to the temptation of drink, laziness, or something else, and the result is bad work.

59,373. The recommendations of Lord Salvesen's Committee in regard to promotion apply specially to full-time appointments?—Yes, and I do not think they consider sufficiently the part-time appointments.

59,374. The special class of deputes they propose to create would be entirely full time?—Yes.

59,375. They say: "That the appointment of all Sheriff Clerks Depute who are not included in the special class hereinafter mentioned should remain in the hands of the Sheriff Clerk, who would continue to be liable for their acts and intromissions"?—Yes.

59,376. Your objection would not apply to that?—Not to a full-time appointment.

59,377. Do you concur with the recommendation that the number of Sheriff Clerks should be reduced so that there should be one in each sheriffdom?—No, I do not understand that suggestion. It seems to be for the purpose of saving a man on one side to increase the salaries of the deputes on the other. Now, the result is a pretty clear one. Let us take Dumfries and Galloway. The result of that recommendation would be that there would be a Sheriff Clerk of Dumfries who would do nothing but Court work, and who would not be a Process clerk. He would not pay any attention to the work of the court.

59,378. Is that part of the recommendation?—Yes. The sixth recommendation on page 14 of the Report states: "That the Sheriff Clerks should no longer be called upon to act as Clerks of the Process in the Civil Courts, or to attend as clerks in the Criminal Courts in the sheriffdom."

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[Continued.]

59,379. Does "Clerk to the Process" mean a clerk who attends in court?—Yes, and takes charge of all the documents, the various pleadings in each action. That would mean that the Sheriff Clerk Depute would have to undertake that duty. There is not much difficulty there, except that it is throwing more work on to the depute. But when you come to Kirkcudbright, where there is at present a Sheriff Clerk, there is to be no change in the work at all. He is to be called a different name, and I presume he is to get a smaller salary. The Sheriff Clerk at Kirkcudbright has a part-time appointment, that is to say, he is unrestricted. He is to be made a whole-time man, with a diminished salary and a change of name.

59,380. Does it necessarily follow that the depute, who takes the place of the Sheriff Clerk, will be one of the special class of whole-time officers?—That is the proposal—the Sheriff Clerks and the Sheriff Clerks Depute who are in charge of a court.

59,381. The special class of deputies would not necessarily include all deputies in charge of a court?—I read that the special class of deputies were to be those who were conducting the work of a court, distinguishing them from the Sheriff Clerk Depute who is working in the same court. I go on to the eighth paragraph on page 15 of the Report which says: "That a special class of deputies should be formed from the deputies at the courts mentioned in the excerpt from the fifth Report of the Royal Commission, already given." I find also on page 12: "At every seat of an ordinary Sheriff Court, not being the place where the Sheriff Clerk resides and personally officiates, in place of the present Sheriff Clerk Depute appointed by the Sheriff Clerk there should be a Sheriff Clerk Depute appointed by the Crown, paid by Exchequer, and entitled, if prohibited from private practice, to a retiring allowance."

59,382. I do not understand that as meaning it is to include the whole of them; no depute is to be placed in that special class except those whose full time is taken up with the work?—That is so. Then my remark would go. There still stands this instance of the Sheriff Clerk of Kirkcudbright, where you would have a depute doing the same work as a Sheriff Clerk, and getting less pay, otherwise the recommendation has no practical effect.

59,383. Do I gather you would prefer to leave the number of Sheriff Clerks as it is?—Yes. I should like to say as regards that, the work of the Sheriff Court is greatly facilitated by the position which the Sheriff Clerk holds in the town where the court is held. If he is a man of some position and standing, and respected by the townspeople and all the local boards, then the work goes on smoothly and steadily. If, on the other hand, he has not that respect or attention, but is just a clerk, there is a constant attempt to get the better of him. The result is unfortunate, and the Sheriffs are called in to redd up mistakes, which should not have been made, and which would not have been made by a man with an outside training and an outside knowledge, and who had the respect of the townspeople in the place. I value a great deal the system we have in these smaller towns of having a local man, with considerable interests outside the Sheriff Court, appointed as Sheriff Clerk.

59,384. Then you do not regard it as best to have as many whole-time officers as possible; you think it preferable for them to have other work as well?—That is to be taken with this remark, that if there is enough work to occupy a man's whole time he should be a whole-time officer.

59,385. None of these officers is pensionable?—None. They should be made pensionable, because there should be an age limit. I do not see how there can be an age limit without a pension.

59,386. What age do you suggest?—Seventy.

59,387. That is a higher age limit than in the Civil Service, which is 65?—At 65 we would lose many valuable men.

59,388. Do you prefer 70?—I think so.

59,389. How far will you extend the system of pensions; would you include part-time officers as well as whole-time officers?—Certainly.

59,390. That would be contrary to the established practice as regards Government pensions?—I understand that as a part-time official I am entitled to a pension, I am paid out of a separate fund, but what is good for the Consolidated Fund out of which I am paid cannot be wrong for any other fund. If you have one man paid 800*l.* for whole-time and another man paid 800*l.* for half-time, I cannot see why a similar retiring allowance should not be paid to each. I don't care whether you pay him whole-time or not. You are giving him 800*l.*, and, when he retires, you should give him a pension applicable to 800*l.*, whether he has been whole-time or half-time. That has not obtained in all cases, and it is a question whether the rule should not be departed from.

59,391. Would you apply that to the staff in the Sheriff Clerks' offices?—Do you mean a system of pension?

59,392. Yes?—I think not. I would be inclined to confine it to the Sheriff Clerk and depute.

59,393. Not to any of the clerks?—No. There might be some senior clerks in the larger towns. For instance, the clerk who does the commissary business, and who is a very important man, might be put on a pensionable scale. That would require further consideration. As a rule, however, I would not pension the junior clerks.

59,394. Do you think the remuneration of the service is adequate?—It is small, as all things in Scotland are. I am not so much concerned with increase of remuneration as with objecting to having full-time men put in to do half-time work. I want men there who have enough to do to keep them from going to sleep. If you do not give them enough to do, let them take up outside work. I cannot complain much about the scale which obtains in Scotland. Of course there are cases where cheeseparings have been at work, and, unfortunately, salaries have been cut down too small, but that is a small matter. Taking it generally, as regards part-time people, I cannot put forward any claim for increase of salary.

59,395. (*Mr. Matheson.*) On what ground do you dislike a committee to appoint or recommend?—There is a suggestion there should be a committee for selection or a committee to appoint, and I dislike it on this ground. There has been a hint in many of these inquiries as to wire-pulling. I am certain, if you had a committee, there would be more wire-pulling. You can take the number of men on the committee as the multiplier for the amount of wire-pulling. If the appointment is left in the hands of one man, there is much less wire-pulling. It will not be stood by one man, but a committee will stand it.

59,396. You think it is not possible to find a committee who can be proof against that sort of thing?—I don't say that at all. What I say is that there is more chance of getting members of a committee who will not be proof against that sort of thing. There is a feeling abroad that when there is a committee there is more chance of wire-pulling. If you take water directors they are much more pestered by wire-pulling than individuals.

59,397. (*Sir George Paul.*) They are pestered, but do they yield?—I am glad to say they have not done so in my experience. It is looked upon as a bar.

59,398. Rather a nuisance?—Yes.

59,399. (*Mr. Matheson.*) Are you aware that many educational appointments are made in England by committees who select and recommend candidates without any difficulty being experienced?—I can only speak from my personal experience. I do not know about that.

59,400. (*Sir Donald MacAlister.*) Have you ever taken part in a selection committee?—As one of a board of directors.

59,401. For a commercial company?—In an insurance company or a bank or such like.

59,402. Do such committees of directors work all right?—Yes.

59,403. Better than if you left the appointment to the managing director?—I am not sure.

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59,404. Does such a committee give greater confidence to the company?—It works with greater satisfaction to the directors themselves. They feel they have some interest in it. I much prefer the individual appointment.

59,405. (*Mr. Graham Wallas.*) We are told that with two exceptions the Procurators Fiscal are paid lump sums, from which they draw both their own salaries and those of their clerks; whereas the Sheriff Clerks are paid a lump sum each, and a sum is allocated to the clerks. Which is the best system?—I cannot say. So far as the Sheriff Clerk is concerned, he is paid a lump sum personally, and an allowance is allocated for the clerks. I do not know who allocates that sum, but it is allocated by someone. That is of great advantage to the Sheriff Clerk Depute, whose salary must be as big as possible, because he occupies an exceedingly responsible position. As regards the Fiscal, his clerks are mere clerks. He has no one approaching the Sheriff Clerk Depute. The Procurator Fiscal's Depute is generally not on his staff at all. He is a man from outside, and gets a Fiscal deputation. I cannot compare the two. The Sheriff Clerk's staff is a permanent staff, and has more responsibility than the Fiscal's staff, which is merely a purely clerical staff. The two systems work very well, each in its own case.

59,406. We had a complaint from the Sheriff Clerks Depute that in one case when, owing to death, a sum of 400*l.* a year was left to be allocated, then instead of giving an increase of salary, the whole 400*l.* was given to a brother of the Sheriff Clerk, who was a bankrupt draper; is there any machinery to find that out and correct it, if such a thing occurred?—I am very much surprised to hear of it, and I thought it would have been found out by the Exchequer, because the returns are made every quarter by the Sheriff Clerk, giving the amount of the salaries to be made to deputies and clerks for the quarter.

59,407. All that is necessary is that the draper should be appointed to the post at 400*l.* and give his receipt yearly; so far, everything would be in form; he is appointed to this post, and is in receipt of his salary; is there any way of getting behind that?—I cannot tell you, except that if I found anything like that happening in my district, I would have an interview with the Sheriff Clerk.

59,408. It is within your powers to make an official inquiry?—I am afraid not, but I would make it uncomfortable for him.

59,409. Do you say there should be in existence in the Public Service a principle that, when a man works part time, there shall be allocated to him with regard to that part time a sum representing a proportionate pension?—I would rather say there should be allocated to him a pension proportionate to the salary paid to him.

59,410. Yes; supposing the part time were not so many hours a day but so many years of his life; suppose a man is taken up by the Government for a definite period, six years, ought the Government to lay up for him a pension for that salary which he has received during the six years?—You are putting the question on very different ground here, because we are considering the salaries of people who are appointed for their whole life, and I only suggested that I wanted to have power to retire men at a certain time, and not have them lingering too long on the stage. That, of necessity, means a pension. As regards an appointment for a six years' job, I am not at all sure that the man is appointed for anything more than six years, and he gets his pay for the six years. Therefore, there is no claim for anything more.

59,411. You said it is desirable that Sheriff Clerks should be local men with considerable local interest?—If I did say that I made a mistake. I did not say local men, but that they should have local knowledge and a knowledge of local men.

59,412. Yes, a local knowledge, and a knowledge of local men; we have been told in evidence that there is a system by which the post of Sheriff Clerk is given to a man who has been an agent on one side or another at elections, and paid by his political party. Is that so?—Undoubtedly there are cases like that. It happens that

the party agent of the county, when a vacancy occurs, and his party is in power, puts in an application, and is quite frequently appointed. On the other hand, it is quite frequent that people who are not party agents are appointed.

59,413. The party agent has much knowledge of local men, and much influence over them; is not that knowledge and influence subject to certain limitations? Are not they only with men of the one party, and not with the other?—In these country districts I think the party agent has as much knowledge of those on the other side of politics as of those on his own. He knows his enemies as well as his friends.

59,414. Do you think his influence is equivalent in each case?—I said nothing about influence. I am not sure I want influence. I want a position and a man who obtains the respect of the people.

59,415. Take respect. Do you think the respect I have for the paid agent of another party, after an election, is the same as the respect I have for the agent of my own party?—Yes, if he has played the game honourably.

59,416. (*Sir George Paul.*) Do you know of appointments to Sheriff Clerkships of men belonging to the other party?—I know of one instance where the party agent was appointed, and within a year you could not tell what his politics were; and in another year he was on the other side of politics.

59,417. You differ from Sheriff Maconochie as regards legal and administrative experience?—Yes.

59,418. You represent the smaller towns?—Yes.

59,419. He is representing the larger?—Yes.

59,420. So you are not necessarily contradictory?—No, I do not say I differ from him in regard to the towns of which he speaks, but I think he has omitted the interests and the different conditions in the smaller towns.

59,421. He is speaking for the larger towns, and you are speaking for the smaller towns?—Yes. He is speaking from his own experience of the larger towns.

59,422. You are speaking from your own experience of the smaller towns?—Yes.

59,423. You are not contradicting him?—No.

59,424. Do you find in regard to the Sheriff Clerks in smaller places that legal experience is necessary?—Yes. I think they have less opportunity to pick up a legal knowledge in small places than a practical knowledge, and they have to pick up the one or the other.

59,425. That is very different from the larger centres?—Yes.

59,426. (*Mr. Boutwood.*) I am not certain that I clearly understand your point of view about one matter; a primary consideration in making appointments is that you want to keep a man fairly busy, to keep him alert, and you have two systems, either the whole-time appointment, which presumably keeps him fully occupied, or the part-time appointment, where the man has other occupations; both these systems keep the man occupied and alert; which is the better?—It depends on the place.

59,427. The question I was leading up to was this: is your view on one side or the other so clear that you would make any attempt to increase the number of whole-time appointments?—I should certainly not attempt to increase the number of whole-time appointments unless there was enough work to give the man whole-time work.

59,428. For instance, it has been said that by a process of amalgamation you could convert what are now three or four part-time appointments into two whole-time appointments; do you see any advantage in that, merely substituting a whole-time appointment for two half-time appointments?—No, and when I look at the practical effect of such a proposal, it simply comes to this, that the whole-time appointments are really, under a different name, taking a man's whole time to do half-time work. I cannot get beyond that, unless you do away with Sheriff Courts, Sheriff Clerks, and Procurators Fiscal, and give the Sheriff Court, Sheriff Clerks, and Procurators Fiscal a much wider district to cover. May I illustrate my point. Kinross is a separate county. The Sheriff Clerk gets a salary

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of 130*l.*, out of which he has to pay his whole clerical staff. The Procurator Fiscal has a salary of 65*l.*, out of which he has to pay his clerical staff and for his stationery. How could you give a whole-time man any of these appointments? It would not be fair to him to give him such an appointment without enormously increasing the salary, so that he could live on it. From my point of view, it would not be fair to him, because you are putting him into a place where he is faced with the temptations of laziness, sloth, and drink. You could only get clear of that by merging counties in the neighbourhood into that county, that is, by extending the area of the Procurator Fiscal, and getting him to work two districts or a greater district. I do not agree with such a suggestion, because you cannot get away from the sentimental point of view. Each county has its own history, its own sentiments, and its own records that have existed for hundreds of years, and to merge one county into a neighbouring county would raise an opposition, the end of which you would not hear for a long time.

59,429. Procurators Fiscal are paid a lump sum, out of which they have to pay themselves and their clerks?—Yes.

59,430. We heard of a case where the Procurator Fiscal's staff was normally five; three went to the war. Do you know what happened to the money. Were the salaries of the three paid back to the Treasury, or did the Procurator Fiscal appropriate them to himself?—Fortunately I am able to tell you exactly. I have here a statement from a Procurator Fiscal who gets 650*l.* in a lump sum. His office salary and expenses were 50*l.* or 60*l.*. One clerk is meantime on military service, and only a boy is employed, making the total expenses only 30*l.* He keeps the balance.

59,431. (*Sir John Kempe.*) You propose that pensions should not be given below deutes, not to ordinary clerks?—With this qualification, that there are some special senior clerks whose case might be considered, but, I think, not as regards the junior clerks, whose appointment and dismissal I should leave entirely in the hands of the Sheriff Clerk.

Mr. WALTER JAMES LEWIS, S.S.C., called and examined.

59,442. (*Chairman.*) You appear as a representative of the Society of Solicitors in the Supreme Courts of Scotland?—Yes.

59,443. You are yourself a practitioner before the Court of Session?—Yes. I have been so for 30 years.

59,444. You gave evidence before the Departmental Committee on Minor Legal Appointments in Scotland in 1911?—Yes.

59,445. The evidence that you are prepared to give, we may take it, is the expression of the views of your society?—That is so.

59,446. Dealing first with the departments specially connected with the Court of Session and the Court of Justiciary, the first question to which we will turn our attention is that of appointment and promotion. Do you consider that previous legal experience outside the public service is desirable for appointments in the offices of the court?—Before entering?

59,447. Yes?—I do.

59,448. Do you think that a definite qualification should be laid down, that no one should be admitted who is not qualified as a law agent?—I think so.

59,449. Would you admit any equivalents to the Law Agents examination?—I would admit all the recognised equivalents; for instance, a degree in law is an equivalent to the Law Agents examination, and the Writers to the Signet examination is also an equivalent.

59,450. You would accept degrees in law without apprenticeship?—No, I would in all cases require a certain amount of outside experience.

59,451. Do you think that the present system of appointment has been satisfactory?—As regards the individuals holding office, I think I may say that the profession is quite satisfied with the way the work is being generally done.

59,432. But you wish to encourage the promotion of the clerks to be depute clerks?—Yes, that is very desirable.

59,433. How about their pensions; would you allow their time served as clerks to count when they are deutes?—I think necessarily it must be so.

59,434. If their service as clerks counts, is not it rather hard to refuse pensions to clerks who have not got promotion?—I do not answer as to that.

59,435. You have not thought that out?—No.

59,436. (*Miss Haldane.*) Regarding the sentimental grounds you mentioned; is not it the case that counties are merged for political purposes?—In regard to politics, the merging raised local opposition, and I fear in this case the local opposition raised would be greater.

59,437. Do you say that merging is not justifiable for that reason; after all the public have to consider what is best for the Service?—I do not think I was asked whether it was justifiable or not. What I said was that any attempt to do away with local counties would raise opposition.

59,438. Has Clackmannan a Sheriff Clerk?—Yes, and a Court and a Procurator Fiscal. While Kinross and Clackmannan are merged for political purposes, they maintain their own names; they are Kinross and Clackmannan.

59,439. Do you think Sheriff Clerks and deutes ought to be allowed to act for local bodies such as Parish Councils; why is that objected to?—I may be wrong, but I think it is objected to because the view of the Civil Service people is that no person can be entitled to a pension unless he is a full-time Civil servant, and does not take up outside jobs. I think it is highly desirable that these public appointments should be open to Sheriff Clerks and deutes.

59,440. If these appointments were given to Sheriff Clerks we might get more whole-time people doing Government work?—They would be fully occupied for the whole time.

59,441. Even if they did not get a private practice?—Yes.

59,452. We have had evidence from numerous witnesses that it is perfectly well known and recognised that considerations relating to political services have entered largely into the method of appointment?—That is generally understood.

59,453. Do you think that is desirable?—I think not.

59,454. You think that that system ought to be done away with?—That system should be done away with, so far as it is possible.

59,455. In the Court of Session in particular the form which that system has taken has been generally the appointment of the Lord Advocate's clerks?—That has been a sort of recognised system.

59,456. Do you think it is desirable that that should continue?—If the Lord Advocate's clerk has been admitted as a law agent, then, to my mind, he should stand his chance along with others, and I would not make any objection to him because of his being in the post of clerk to the Lord Advocate.

59,457. Some witnesses have objected to that system on the ground that the appointment of the Lord Advocate's clerk to a comparatively high post in the service was unfair to those who were already there in the lower posts? Do you agree with that criticism?—I quite agree with that.

59,458. Your observations on the question of appointment on political grounds are general, I suppose, and apply not only to offices connected with the Court of Session but to other offices also?—Yes.

59,459. How would you do away with the present system?—As long as the patronage is with the Crown, I do not see that you can, from the nature of things, get it absolutely excluded. I do think that some new method should be adopted. The method which I have ventured to suggest is having something of the nature of a standing committee of appointment.

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59,460. What exactly would be the function of the committee?—Being a standing committee, it would be acquainted with the needs and requirements of every office in the court. It would also be acquainted with various men who are to some extent acquainted with the duties. The members would be in a position to select suitable persons for any vacancies, and, to my mind, a committee such as that would be in a better position to appoint than any single individual.

59,461. Would their function be to appoint, or to recommend to a Minister for appointment?—I do not see myself how you can absolutely exclude the Crown as the final appointing agency, and, therefore, that is why I have suggested that the real right of appointment must remain in the Crown; but I think that if there was a committee specially charged with the responsibility of this, the Lord Advocate would be almost bound to act in accordance with the views of that committee.

59,462. At any rate, if he departed from their recommendation he would have to be prepared to meet criticism?—That is my view; and therefore it would come to be, although the patronage was with the Crown, the result would be that a man would be appointed without Crown influence and not upon political grounds.

59,463. How would you compose such a committee?—It might be composed of two judges of the Court of Session along with the Principal Clerk of Session. The Principal Clerk of Session I include on the footing that in the course of time he may possibly be the official who will have absolute control, or, at least, control to a very large extent, of the whole court establishment, and he will be in touch with it and have some controlling influence over everybody in the court, and, therefore, he would be in a position to advise and consult with two members of the Bench.

59,464. Do you apply that suggestion of a committee to the local legal appointments as well as the central legal appointments—I mean the Sheriff Court appointments?—No, I keep that in a separate category I am speaking solely of the Court of Session offices.

59,465. Various witnesses have criticised the suggestion of a committee to deal with appointments on the ground that the committee would be exposed to personal or political pressure to a greater degree than an individual. That criticism suggests, I presume, that a committee would be less able to resist such pressure. Do you agree with that?—No; with all respect, my feeling is the other way. At present, I think the Lord Advocate is exposed to a great deal of pressure as it is. It seems to me that with a committee—this is a committee of men more concerned with the administration of the work of the court than any other interest—it would not be open to any outside influence of any kind, because they would have all the knowledge in their own hands. They would have a first-hand knowledge and acquaintance with the candidates, and I should imagine they would be able to go very much more independently about it than any individual.

59,466. At any rate, they would not have any political claims to satisfy?—Certainly not.

59,467. If you had a system of that kind, would you assume that the higher posts in the offices with which we are dealing would be filled by promotion from the lower posts?—Naturally so.

59,468. If there were qualified persons?—Yes.

59,469. That is to say, you would give the committee a voice in the promotions as well as in the original appointments?—Yes.

59,470. Competitive examination has also been suggested as a method of original entry into the offices, but I gather that you would prefer a system of appointment such as you have described?—Yes; I do not see in what subjects there could be competition and I do not see how the results of any competitive examination could be satisfactory.

59,471. In order to work such a system satisfactorily, would it be necessary to bring the various special departments of the court into closer relation with each other?—It is difficult to answer that, because all the departments are, to a certain extent, separate, but if you had a committee it would certainly be in a very good position to transfer from one department to another.

59,472. At any rate, the Court of Justiciary would have to remain separate?—I think it would have to remain absolutely separate.

59,473. And the Crown Office would remain separate?—Yes.

59,474. Do you consider that transfers might take place more frequently than they do between, for instance, the Extractor's Department and the Clerks of Court?—Yes, I think the Extractor's Department might be looked upon as the more elementary, and a person might pass from that department to be an assistant in the Bill Chamber, or an assistant in the Outer House.

59,475. And, having done that, he might be eligible for the position of Assistant Extractor or the Extractorship?—Yes.

59,476. Might there also be some degree of interchange with the Bill Chamber?—Yes, I think from the Bill Chamber to the Depute Clerks or Assistant Clerks; I am not so sure about vice versa.

59,477. Some difficulty arises at present from the location of the offices?—Yes.

59,478. The recommendation was made by Lord Salvesen's Committee that the offices of the Court should be removed from the Register House to the Parliament House. Do you concur in that?—Yes, I quite concur.

59,479. Do you think considerable advantage would result?—I think very great advantage would result.

59,480. Would you explain that a little more in detail?—Well, the system just now in force is one which would not be adopted in any scheme now instituted for the first time. The offices of the Court are in Princes Street, while the Court is up in Parliament House, and it means that documents have to be taken up every morning for cases that are on the Roll, and it means they have to come down again when the cases are over in the afternoon. One result is, you cannot deal with the Process or deal with any papers except in the afternoon; you can only get papers from 2 o'clock to 5 o'clock in the afternoon. This system lends itself to all manner of troubles. Suppose you get an interlocutor in the afternoon and you find something not quite right in it, the official who has charge of the paper in the afternoon is not the official who has been dealing with it in the morning, and you cannot get hold of him to put it right. You have to go back to the court in the morning and find the man responsible for it. There is loss of time in running about for little things like that.

59,481. That would be righted if the offices were in Parliament House?—Yes; I think if the offices were in Parliament House it would come to this, that the Process Office would be open the whole day.

59,482. And the offices which are at present attached to each particular court would be combined in that Process Office?—Yes, I think that would result in a great saving of labour and a saving of men, and necessarily a saving of money. Another difficulty at the present moment is, for instance, the Auditor's Offices—another department of the court—are up in George IV. Bridge, and that means that clerks have to take papers which they can only get in the afternoon from Princes Street up to George IV. Bridge, and there is a great deal of time wasted and unnecessary trouble caused.

59,483. As you have already mentioned, it would be of importance to have the offices open during longer hours each day if they were up at the courts?—Yes.

59,484. Would it also be desirable to place the offices of the Auditor in close conjunction with the court?—I think that is highly desirable.

59,485. Do you consider that the members of the staff should be restricted from all outside business?—Yes.

59,486. And what about an age limit for retirement?—I understand suggestions have been made in some quarters that 65 should be the age limit. I am quite in favour of an age limit, but from the nature of the work of the court officials my impression is that a man up to 70 is quite able to do the work, and probably able to do it better, with his years of experience.

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59,487. Then you would suggest that the Civil Service limit, which is 65, should be somewhat raised?—I understand just now that it is 70 with regard to some of the appointments under the Crown, and I don't see any reason for limiting that.

59,488. Turning now to the Register House departments, and, in particular, to the Office of Sasines, questions have been mentioned before the Commission concerning the various authorities who control the Register House departments, and their relation to each other and to the departments. The four authorities who have some voice in the matter are, the Court of Session, the Deputy Clerk Register, the Treasury, and the Secretary for Scotland. Will you give us your views as to what should be the measure of control of each of these authorities?—I don't think that is a matter that our society has really considered very carefully or has really very much interest in. I don't know that it has ever come before us very definitely, except when a good many suggestions were made some time since about altering the method of registration. I think until a recent decision our members were not really brought face to face with the question of control. It seems to me to be clear that there is some necessity for having the jurisdiction of the Court of Session maintained over the whole register and everything connected with it. The decision I refer to is that of the Court of Session in a case—Macdonald (1914, Session Cases, 854).

59,489. You would maintain the jurisdiction of the Court over all matters affecting the system of Registration?—Yes. I think it lay originally with the Court of Session, but in one way or another it seems that the Treasury has managed to get a considerable amount of control. It appears that there was some difficulty with regard to the respective rights of the Keeper of the Register and the Deputy Clerk Register. Many members of the profession seemed to think it rather a serious matter if the Keeper of the Register of Sasines was to have this unlimited control with regard to the registration of deeds. So much depends upon it that it seems to be too much to be left in his hands. We think that is a matter which certainly affects the interests of clients and should be made clear.

59,490. Turning now to the Sheriff Courts: Is it the case that the work of the Sheriff Courts has been increasing considerably of late years?—Very considerably.

59,491. In volume or in complexity?—Both in volume and in complexity.

59,492. Do you infer from that that it is more important than in the past that a very high standard of qualifications should be required for the officers of the Court?—I do.

59,493. Then what do you think should be the qualifications for appointment as Sheriff Clerk?—I would have every one, either Sheriff Clerks or Depute Clerks, pass the examination of a law agent, or its equivalent, and they should also have a certain amount of experience.

59,494. Experience of what kind?—Experience with a court practitioner would be very good, but in the case of the Sheriff Clerk's office, I think experience in the office would be practically as good. Five years' training in a Sheriff Clerk's office should be, I think, equivalent to five years' apprenticeship outside.

59,495. But you would require that the Law Agents examination should be passed before a person who had served in the office would be eligible to promotion to the post of depute?—Yes.

59,496. You are aware that Lord Salvesen's Committee made some recommendations in the direction of giving the staff better prospects of promotion to the higher posts. Do you concur generally in these suggestions?—Yes.

59,497. You think it desirable that the staff should have an opportunity?—Yes; and, of course, that depends on bringing in the right sort of men to begin with.

59,498. How do you suggest that the right sort of men should be brought in?—There is a difficulty, I understand, in getting boys to come into the Sheriff

Clerk's office, because it is often a hopeless career; but I think if it was recognised that an apprenticeship in a Sheriff Clerk's office should be equal to an apprenticeship in a law agent's office, he would feel that he could go outside after serving his apprenticeship in the office. On the other hand, if he turned out all right, he would be eminently fit for promotion in the office.

59,499. Would legislation be necessary to make service in the Sheriff Clerk's office equivalent to apprenticeship in a law agent's office?—I think it would. Prior to the Act of 1873 such a course was possible; but since that Act you cannot be indentured to a Sheriff Clerk or a Sheriff Clerk Depute.

59,500. Lord Salvesen's Committee also recommended that the number of Sheriff Clerks should be reduced, that there should be one Sheriff Clerk in each sheriffdom. Do you concur in that view?—Yes.

59,501. They also suggested that there should be a special class of deposes who should be whole-time officers, and who would, no doubt, be pensionable. Do you concur in that recommendation?—I do. The difficulty is you cannot put all the Sheriff Clerks Depute on one basis or in one category.

59,502. Do you see any objection to a Sheriff Clerk or depute in a place where there is not enough work to occupy his whole time doing other business as well?—I think in a case like that he must do other business. I do not see how it could be avoided, but I think every means should be taken to avoid such a practice, either by making the districts larger, if possible, or by confining the nature of the work he is allowed to do. I think it is a very bad plan if he is to be in private practice. Of course, there are a good many appointments one could hold in the country to which objection might not be taken.

59,503. Public appointments?—Yes.

59,504. If a Sheriff Clerk or Depute has any private practice, would any conflict be likely to arise between the interests of his clients and his duties as a public officer?—It is difficult to say. There is bound to be a certain amount of conflict and difficulty. We have had that state of matters in Scotland both with regard to Sheriff Clerks and Fiscals, and I do not know that any instance of great trouble has come to light, but it is liable to cause a great deal of friction and difficulty now and again.

59,505. In the case of the Procurators Fiscal, some similar questions arise. Do you consider that it is desirable, wherever possible, to restrict the Procurator Fiscal from private practice?—I think it is most desirable.

59,506. Within recent years that has been the tendency?—Yes.

59,507. We have had evidence from certain witnesses who have expressed their opinion in the other direction. They have expressed the view that it is very undesirable that a man should not have a full day's work, and that if there is not enough public work to occupy his time it is desirable that he should be at liberty to do private work?—If a man is busy at his work all day his work is better done than the work of a man who is half the day idle. In criminal work, my view is that it is better to have an official who will be confined to that special work.

59,508. In the case of the Procurators Fiscal, would any friction be likely to arise if they were doing other work?—I think so. I think they are liable to get into an awkward position.

59,509. It has been pointed out to us that there is difficulty in reducing the number of Procurators Fiscal, because crime may arise at any moment, and it is therefore undesirable to make the districts too large?—That does not altogether appeal to me. My impression is that the difficulty would be solved by large districts. Of course that would mean that competent clerks would be placed in different parts. Now that travelling is so easy, I do not think any district would likely be so large but what the Fiscal could be on the spot immediately and make all the investigations necessary.

59,510. You would be in favour, therefore, of a reduction in the number?—Yes. I think a great deal of

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the work could be done in the centres. The superintendent of police and the local constables are able to do a good deal of the preliminary investigations.

59,511. You told us you were in favour of promotion, as far as practicable, in the Sheriff Clerks' offices from the lower to the higher posts. Do you apply that also to the Procurators Fiscal?—Yes, I do.

59,512. You would, as far as possible, fill the posts of Procurators Fiscal from deputes; and would you go further and fill these posts from the clerks in the offices of Procurators Fiscal?—I would.

59,513. In both of these cases the question of promotion raises the question of transfer from district to district. You would be in favour of free transfer for that purpose?—Yes, I would.

59,514. It has been suggested that in many cases the expenses of transfer would be prohibitive, and that it would not be worth a man's while to move for a moderate increase of salary?—I cannot quite follow that. I cannot conceive that the mere expense of going from one town to another would be a drawback where there were other advantages.

59,515. At any rate, the man might have the option of going?—Yes. We have had several instances of Fiscals being transferred from one county to another in recent years.

59,516. The suggestion you made as regards a committee to make appointments applied to the Edinburgh offices?—Yes.

59,517. What do you think is the right system of appointment, taking first the Sheriff Clerks and their offices?—Well, the plan I suggest is that it should remain in the Crown, but in consultation with the Sheriff.

59,518. You think it desirable to exclude political grounds for this service also?—Yes, certainly.

59,519. Do you think that would be secured by requiring the Lord Advocate to consult the Sheriff?—I do not see what body could be set up to manage a better system in the Sheriff Courts.

59,520. You would lay it down as a principle that in the event of a vacancy in one of the higher posts the claims of those already in the Service should be considered specially?—Yes.

59,521. As regards the Procurators Fiscal, what system of appointment do you think is right there?—We propose that the Crown Agent should be consulted.

59,522. The Crown Agent is himself a political officer?—There is that awkward feature, perhaps; but there again I look upon him as the active head of the department, and I do not see what better sort of committee we could get than that.

59,523. It hardly seems likely that consultation with him would tend to the exclusion of political considerations?—That is so; but then, on the other hand, we have got a special department here, and we have seen the tendency of late years, I think, not to go so much on political lines. I do not think that any head of the Crown Office would allow politics to enter very much into it. While I see that objection, on the other hand I do not see any other competent authority for the appointment of prosecuting officials.

59,524. The question has been raised with regard to the Commissary Court of Edinburgh, whether it is necessary to maintain it as a separate organisation, or whether its work might be transferred to the Sheriff Clerk. Will you give us your views?—I do not agree with that suggestion at all.

59,525. You think the Commissary Office should be maintained?—I think it occupies in Edinburgh such a peculiar position that it should be preserved intact. I cannot see anything to be gained by transferring it to the Edinburgh Sheriff Court, either in management, administration, or any saving in any direction.

59,526. The work differs in some respects from the work done in the Sheriff Court?—Yes, it does. It has a sort of jurisdiction in matters of succession over the whole world. To transfer it would mean that it would simply be a transfer in name, because, as regards management and everything else, I think such a change would have no justification.

59,527. (Lord Dundas.) Would there be any money-saving over it?—I think none whatever.

59,528. You told us that, as regards some of the departments of the Court of Session, you thought there might, with advantage, be a rather more mixed changing among them?—Yes.

59,529. For instance, the Assistant Clerks of Court might interchange, perhaps, with the Bill Chambers underlings, or the Extractor's underlings, or the like?—Yes.

59,530. On the other hand, I think you made it quite clear that there should be no such freedom of exchange between the Court of Session, the Judiciary Office, or the Crown Office?—I think there should not.

59,531. So that leaves a very small residuum?—Yes.

59,532. I see in your précis you sum it up in this way: "I do not think that anything can be done by consolidation of the departments of the Court of Session with any appreciable benefit as regards efficiency"?—Yes; that is my view.

59,533. As regards the present method of Crown appointments, you have indicated to the Chairman that you deprecate the system of party politics being a consideration in such appointments?—Yes.

59,534. That attitude is rather a question of principle than because you think the public has been badly served up to now?—That is so; we have had some remarkably good results under it.

59,535. But, as a matter of principle, you feel that?—Yes.

59,536. Then you have told us that except as regards the Court of Session appointments you think that probably the Lord Advocate must be left to appoint, but that as regards Sheriff Clerks he ought to consult with the Sheriff?—Yes, that is so.

59,537. The only question on that is, are you under the impression that the Lord Advocate at present does not consult the Sheriff before he makes the appointment?—I have no doubt he does.

59,538. Then there is no reform needed?—If he does, I do not think there is.

59,539. But if he does not you think he should?—Yes.

59,540. In the same way I should have thought that the Lord Advocate in all probability did consult the Sheriff with regard to Procurators Fiscal?—I should think so.

59,541. It is only as regards the Court of Session appointments that you have made a somewhat different suggestion, namely, an advisory committee to advise the Lord Advocate?—Yes.

59,542. That would only really apply, I suppose, to about one dozen or 15 men?—Yes, or perhaps 20.

59,543. It is a very small area for reform?—I want to go a step further; I was going to devolve a good deal more on that body. That was only to be a part of their work.

59,544. You mean as regards supervision?—Yes.

59,545. But, as regards appointment, it is that very limited area that you propose to form a committee for?—Yes.

59,546. The suggestion you make is a couple of judges and the Principal Clerk of Session to assist the Lord Advocate?—Yes.

59,547. Might I ask, is it your own idea?—It is very largely my own idea.

59,548. Have you considered whether it is a good thing that judges should have patronage?—If I am not mistaken there is patronage in the hands of the Lord Chancellor of England.

59,549. But he is more than a judge?—I think in questions of administration and the working of the Court that really the judges are best qualified to deal.

59,550. You have no objection to a judge with a certain measure of patronage?—No, I think not.

59,551. The Lord Advocate is directly responsible to Parliament and to Parliament House as it is?—Yes.

59,552. The judges are responsible to nobody?—No.

59,553. Is not that fact one which ought to be kept in view?—At present the Court is so anxious to see that the work is carried on well that if it was thought that this was really an improved method, the question

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of not being answerable to anybody would not, I think, be an element.

59,554. I suppose you will agree with me, on such a question as to whether there should be an advisory committee of any sort to advise the Lord Advocate, the views of Lord Dunedin would be valuable, would they not?—I should think they would.

59,555. One last matter. As regards Procurators Fiscal and their fitness, capabilities, and requirements, I suppose that an experienced Sheriff would really be a person more likely to have valuable knowledge than anybody else?—Yes.

59,556. And the opinion of an experienced Sheriff on such matters are, I suppose, those which would carry most legitimate weight?—Yes.

59,557. (*Miss Haldane.*) Have you ever thought, in regard to this advisory committee, of a suggestion that has been made in England of having a Civil Service Commissioner on such a committee?—I have not considered that, but the matter being so technical, and, so to speak, a matter of domestic economy as regards the courts, it does not strike me that a person from outside would be of assistance.

59,558. You understand what I mean by a Civil Service Commissioner representing Scotland?—Yes.

59,559. But you have not considered that?—No.

59,560. Then you were speaking of larger districts. I suppose that would entail some of the small counties being merged in others, like Clackmannan, Kinross, and so on?—Yes.

59,561. Would there be any objection to that?—I don't think so.

59,562. Would there be much feeling?—No, because at present we have some of the smaller counties forming one sheriffdom; they are already bound together as one sheriffdom.

59,563. Then you say that you would prefer to have the men giving their whole time and attention to public duties, but you would not exclude an official acting as Auditor of Court, unless in a large city. You mean that they might do certain work under Government?—It is not exactly under the Government. It is auditing accounts in litigations—work which the Sheriff Clerks perform in the smaller towns.

59,564. Would that be the only extra work?—If possible, that would be the only extra work that I would allow them to do.

59,565. (*Lord Dundas.*) Your advisory committee of two judges and the principal clerk, I think you were going on to say, was not merely to be appointed with regard to the appointments, but with some supervisory functions which they would have to exercise in some sort of way?—Yes, in a much enlarged capacity.

59,566. (*Miss Haldane.*) Would you allow the Procurators Fiscal to undertake other work?—Not if it could possibly be avoided.

59,567. Would you allow any of them to undertake work for school boards or bodies of that kind?—Not unless it was in a case where it was impossible to get a man to take the place of Fiscal otherwise.

59,568. What is the objection?—There is the general principle. One never knows what difficulties they may get into.

59,569. (*Mr. Boutwood.*) I gather that you are rather in favour of letting some of these legal officials aggregate offices, that is to say, hold several offices?—I do not think they should, as a rule.

59,570. Did not you say that you thought some of these legal officials, who did not hold full-time appointments, might hold other public appointments?—Certainly. In some places it might be impossible to get men otherwise.

59,571. That would bring a large section of the legal administration into one pair of hands in a country district, would not it?—Well, that is the state of matters that exists now very largely.

59,572. I dare say Scotland is very different from England, but I happen to live in a district in England

where that thing does happen, and the men are not the sort of men that one would naturally associate with, and one feels as if one were under an alien tyranny?—At present, in the country districts, a man who does hold one of these appointments has necessarily other small appointments that he can aggregate, or he could not live, and I think that is one of the things we should try to remove if we can.

59,573. (*Sir George Paul.*) Did I understand you aright when you said that you would restrict the Sheriff Clerk from all private work?—Yes.

59,574. In a place, like, for instance, Kinross, there is very little for a Sheriff Clerk to do. Would you rather keep him half the day idle?—I treat that case by suggesting that the district should be enlarged.

59,575. Taking things as they are?—Taking things as they are, in a small county I do not know that you could do that.

59,576. It would depend on the sort of county and the sort of work?—Yes.

59,577. As regards auditing accounts, it is very common, I think, for the Sheriff Clerk or the Sheriff Clerk Depute to audit the accounts of the Court?—Yes.

59,578. But I think they also act as referees, auditing accounts as between agents and clients?—They have a great deal of that work to do.

59,579. I think they have always done that, and I think some of the witnesses we have had before us approve of it?—Yes, I think there would not be very great objection to that.

59,580. As regards young boys going into Sheriff Clerks' offices, you say that you think five years' training in a Sheriff Clerk's office should be equivalent to five years' apprenticeship with a law agent, but that would not always hold good. In a Sheriff Clerk's office like Edinburgh that would be all very well, but in a Sheriff Clerk's office like Kinross that would not always apply?—My theory would be that every Sheriff Clerk and every Sheriff Clerk Depute would be a law agent, and therefore everybody coming in could be apprenticed to him. I am dealing with this scheme as a whole. Of course you have to make an allowance for exceptional places. In some places just now it would not answer for a boy to serve five years' apprenticeship.

59,581. (*Mr. Graham Wallas.*) It has been suggested that it would be a good thing to have a maximum age beyond which people should not be allowed to hold these appointments, the age being appropriate in each case to the appointment. Has your society thought of that?—No, I do not think so. Of course, if the question of five years' service was involved, it would practically result in an age limit of 21 for entering the service.

59,582. But take other higher appointments, do you think your society would feel that the appointment of a gentleman of 67 to be a Depute Clerk of Session was a little unfair?—I think they would probably feel that.

59,583. May I take it that, with regard to these legal appointments, the tradition is that, in the first place, personal obligations incurred by the Lord Advocate ought to be satisfied—his personal obligations to his clerks, for instance?—Well, I cannot tell what view any Lord Advocate takes on that matter.

59,584. But there is a tradition?—Presumably appointments are made on political ground as an appreciation of political services.

59,585. When there is no personal claim political services seem to count. May I take it that the purpose of your evidence is that your very important professional body disapproves of that tradition and desires to see it broken?—Yes.

59,586. And that one very valuable service to be performed by the committee you suggest would be the breaking of that tradition?—Yes.

59,587. And if any other method could be suggested, which would have the result of breaking that tradition, your society would agree with it?—Yes, I think they probably would.

At Royal Commissions House, Old Palace Yard, S.W.

ONE HUNDRED AND FORTY-FIRST DAY.

Wednesday, 23rd June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir GEORGE MORISON PAUL.

Mr. ARTHUR BOUTWOOD.

Mr. JOHN ROBERT CLYNES, M.P.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. PHILIP SNOWDEN, M.P.

Mr. GRAHAM WALLAS.

Miss HALDANE.

Mr. E. W. H. MILLAR (*Secretary*).

The Hon. LORD KENNEDY (Chairman of the Scottish Land Court), called and examined.

59,588. (*Chairman*.) My Lord, you are Chairman of the Scottish Land Court?—Yes.

59,589. You had formerly been Chairman of the Crofters Commission?—For the last four years of the existence of that Commission I was the chairman—1908 to 1912.

59,590. Before that had you practised in the Legal profession in Scotland?—I had practised in the Legal profession, and I was Sheriff of Renfrew and Bute.

59,591. The Scottish Land Court has been in existence now for some three years?—Yes, since 1st April 1912, when it formally came into existence.

59,592. In some respects it succeeded to the Crofters Commission?—Yes, it took over all the duties of the Crofters Commission, which related solely to the seven crofting northern counties of Scotland. Those duties, and a considerable number of new duties, were conferred on it, especially in relation to the Board of Agriculture.

59,593. Those duties were defined by the Small Landholders (Scotland) Act, 1911?—That is so.

59,594. For the purposes of this Commission it will be unnecessary to go in detail into the nature of the jurisdiction and duties of the Court, but perhaps you will tell us very briefly and generally what the work of the Court is?—In very general terms the powers of the Court mainly concern the fixing of rents for the landholders and statutory small tenants to whom the Act applies, and also to a large extent fixing compensation for permanent improvements when landholders renounce or are removed from their holdings. We have also jurisdiction in a great number of incidental questions of boundary, succession, assignment, and so on. Then the most important of the new duties of the Land Court are the authorising of schemes on the application of the Board of Agriculture for Scotland for the creation of new landholders' holdings on available land, and also—which is an extension of a power under the Crofters Act—for enlarging existing holdings up to the statutory limits of a holding.

59,595. Do those duties apply to the whole of Scotland or only to certain counties?—These duties apply to the whole of Scotland, though our work from time to time lies more in some counties, especially the northern counties, than in the others. Our powers extend over the whole of Scotland, but the Crofters Commission's powers were limited to the seven northern counties.

59,596. Is the work done centrally or on the spot?—The greater part of the work is done on the spot. Excluding applications of the Board of Agriculture, I may say the whole of the work is done locally, except applications which are from the area within, roughly speaking, 35 or 40 miles of Edinburgh.

59,597. The members of the Court spend a considerable part of their time in local sittings?—That is so; the greater part of the year is spent in local sittings in districts and parishes throughout Scotland.

59,598. The Court consists of the chairman (yourself) and four lay members?—Yes, four lay agricultural experts.

59,599. How is the work of the different members of the Court arranged? Do the different members of the Court tour in different localities for the purpose of holding sittings?—Each member of the Court has

primarily a special district. For instance, the Gaelic member has the Gaelic-speaking parts of the northern counties primarily. It depends largely on the amount of work at the time. The Gaelic-speaking member might also take the county of Caithness, and sometimes part of the county of Aberdeen, so that there is no east-iron division of districts; but, primarily, each member has his own district.

59,600. Has the chairman a special district?—No.

59,601. Does he circulate through all districts?—I circulate through all districts.

59,602. In what circumstances does the Court sit as a whole?—The Court sits as a whole, that is to say, with a quorum of three members, including the Chairman, for practically all Board of Agriculture applications, because they are usually very extensive in area, involving a good deal of money, and the Board of Agriculture having its counsel and agents, and very often expert witnesses, in Edinburgh, it is more convenient that in their cases the sittings should be held in Edinburgh.

59,603. The Court, as a body, also hear appeals from individual members?—The Court, as a body, sit to hear appeals from individual members.

59,604. Are those sittings in Edinburgh?—Only when the parties desire it, or when the appeal comes from a district within easy range of Edinburgh. Of course, you will understand that if we were to require parties to come from a distance for the hearing of appeals, it would be practically inflicting on them the same expense as if it were a Supreme Court appeal.

59,605. So that in districts away from Edinburgh, appeals would ordinarily be heard on the spot?—We must go to the spot. For example, we have lately been hearing appeals in Stornoway from the Isle of Lewis; and in Shetland we should have to go at least to the seat of the local Sheriff Court, and probably to the separate islands to hear appeals. There is this other reason, that an appeal very often involves, if the parties desire it and we think it reasonable, a re-inspection of the holding or holdings to which the appeal relates, and therefore a visit of one or more members of the Court would often be necessary even if the sitting were held at a distance from the actual locality where the holdings are situated.

59,606. Will you tell us now what the staff is for dealing with the clerical work under the Court?—The staff consists in all of 16 members, including the three lady typists.

59,607. You have been good enough to give us a list of the staff with their ages and salaries?—Yes; I have put in a table at the end of my précis, as desired. The first is Mr. Mackenzie, the Principal Clerk and Secretary of the Court, who was originally appointed when the Crofters Commission began, and was transferred under the Act of 1911.

59,608. What are his duties?—In the first place he is the head of the whole staff of the Court, and, of course, he is responsible for the supervision of the staff. He conducts all correspondence, which is pretty large. Then he makes, or supervises, all working arrangements for the conduct of the business of the Court, and he also acts personally as Principal Clerk of Court in all applications heard by a full Court, that is to say, a Court of at least three members, or by a

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[Continued.]

division of the Court over which the Chairman presides. He prepares the annual report of the Land Court for Parliament, and he is also accounting officer for the department of the Land Court.

59,609. Then there are four Depute Clerks of Court with salaries varying between 300*l.* and 600*l.*?—Yes, they begin at 300*l.* to 500*l.*, and they go on to 400*l.*, 500*l.*, and 600*l.*

59,610. The senior depute clerk has a higher scale of salary than the others?—He has, because he also acts as taxing master, or Auditor of the Court, for which he gets no fees. Auditors are very often paid by fees, but his salary was fixed so as to include all duties with regard to the bills of costs of solicitors or parties before the Court.

59,611. The second Depute Clerk of Court has a higher salary than the other two. How does that arise?—His general duties are the same, but, I think, when we were arranging the scale of salaries we were anxious to have one post with a somewhat better salary so as to get a man of great experience; otherwise they would have begun on the same level.

59,612. Will future appointments all be on the lower level?—On the lower level. The posts as they stand, with the scales of salaries, were duly sanctioned, but there was certainly the understanding that every future appointment should begin on the lower scale—every future appointment if made outside the office.

59,613. The depute clerks, besides acting as clerks of Court, act as legal assessors?—Yes, each to one of the four expert lay members of the Court.

59,614. What are the duties of the four assistant clerks?—They assist in the clerical work connected with all processes before the Court, and they also take a share in the general work of the office.

59,615. Do they remain in Edinburgh?—Some of them, I think, are always in Edinburgh; but when the Principal Clerk is on circuit (as he is for a large part of the year), at least one assistant clerk goes with him—sometimes two if there is a good deal of general business to be forwarded to the Principal Clerk and myself, and undertaken by us when we are sitting on circuit.

59,616. You have certain special officers in addition to those you have enumerated?—Yes.

59,617. Will you tell us what they are?—The first is the Draughtsman and Surveyor of the Court. His especial duties relate to the correcting and preparing of plans in relation to applications, particularly, perhaps, the applications of the Board of Agriculture, which involve often very extensive plans, and reporting as to the area of holdings and buildings, or any matters which we remit to him instead of putting the parties to the expense of a separate remit to an outsider. He also acts as an assistant clerk regularly, both in the office work and in the work of the Court.

59,618. You have a Clerk of Accounts?—The Clerk of Accounts' special duty is keeping the accounts of the department of the Land Court under the supervision of the accounting officer; but he also acts as assistant clerk in the work of the office.

59,619. Who is the accounting officer?—The accounting officer of the department is the Principal Clerk, but the Clerk of Accounts is a Civil servant whom we took from the Scottish Exchequer Office, as the accounts have to be made up according to their system.

59,620. You have a Keeper of the Rolls of Court?—Yes. He is an additional clerk of Court also, but his main duties are keeping a set of books, entering each application to the Court, and recording each step in procedure until final determination, and then preparing lists or tables of cases awaiting disposal. He also authenticates copies and extracts of orders and proceedings of the Court. He acts as additional clerk of Court and takes part in the general work of the office when required; for instance, he usually gets his holiday in July, so that he can be in the office during vacation.

59,621. You also have a Grazings officer?—His special duties relate to common pastures which are found almost exclusively in the seven northern counties of Scotland. We have very extensive administrative and

judicial powers with reference to those common pastures; he visits the common pastures and the committees or constables who are in charge of them, and reports as to regulations, and advises the existing local committees in cases of difficulty. He also takes part in the general work of the office as required, but he does not act as assistant clerk on circuit.

59,622. I gather that all these four special officers take part in the general work of the office as occasion offers?—They do.

59,623. For copying work you have three typists?—Yes.

59,624. What is the method of appointment to the clerical staff?—Except the Principal Clerk all the rest of the staff are appointed by the Land Court, as the staff under the Crofters Commission was appointed under their Act of Parliament. The present Principal Clerk and the senior clerk depute, the senior assistant clerk and the Grazings officer were originally appointed by the Crofters Commission, and were transferred by the Secretary for Scotland with the consent of the Treasury to the Land Court staff under the power in the statute of 1911. The Principal Clerk is appointed by the Secretary for Scotland under Section 3 (6) of the Land Court Act 1911. All the other members of the staff are appointed by the Court under Section 3 (7).

59,625. The Court has complete power as regards both original appointments and subsequent promotions?—Yes, as it stands, that is so.

59,626. Are any special qualifications laid down either for the Principal Clerk or the other members of the staff?—For the Principal Clerk the sole statutory requirement is that he should be a fit person, and it is for the Secretary for Scotland to judge of the fitness of a man for the office.

59,627.—As regards the other members of the staff nothing is laid down in the Act?—With regard to the Depute Clerks of Court, we laid it down as a rule, in making the existing appointments, that every Depute Clerk of Court, as he had to act as a legal assessor, must be either a qualified solicitor of considerable experience or a member of the Bar. All the existing depute clerks are solicitors. The salary was not sufficiently attractive to bring in applications, I think, from members of the Bar; we had some inquiries but no applications.

59,628. That is a principle adopted by the Court for its own guidance, and is not laid down otherwise?—Yes. It is laid down in correspondence with the Scottish office, and is laid down in a rule made by us before these appointments were made.

59,629. What qualifications are required for assistant clerks?—The qualifications required are that they shall have considerable experience in a law office of good standing, preferably an office which has a good deal of landed estate work, and also preferably an office that has had a good deal to do with Land Court work, or that they shall have experience in the legal department of a public office, which is an equivalent qualification in many cases. We also require skill in shorthand and typewriting. At present the Civil Service Commissioners have prescribed an examination for these assistant clerkships consisting of English, English composition, copying manuscript, arithmetic, typewriting, and shorthand.

59,630. Are the assistant clerks employed to report the proceedings of the Court, or for what purpose do they use the shorthand which they are required to know?—Sometimes they are so employed, but not regularly. They require shorthand mainly for the office work—for correspondence, and for orders of the Court, and for making out the draft of the record of the Court. There are other purposes, but these are the main purposes.

59,631. Have the members of the staff to obtain a Civil Service certificate?—All, excepting the Principal Clerk, have obtained a Civil Service certificate with two exceptions in the special offices. One female typist has not got her certificate yet.

59,632. Do they obtain that after examination or without examination?—The depute clerks and legal assessors obtained the certificate of qualification without

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passing any examination; but then, of course, they had passed the necessary examination for qualification as solicitors.

59,633. Did they obtain their certificates under Clause 7?—Yes, under Clause 7 of the Order of 1910, and so did the others.

59,634. Were they required to pass a medical examination?—Yes.

59,635. Are they all pensionable?—The depute clerks and the assistant clerks are all pensionable. Two of the female typists are; the third is temporary, and is not as yet pensionable. The first exception I have already mentioned—the third female typist—she has passed the examination for typewriting; but she is not pensionable because she has not yet passed the medical examination. The other member of the staff who is not pensionable is the Keeper of the Rolls and additional clerk of the Court.

59,636. What is the reason for that last exception?—The post is regarded as pensionable; but the Civil Service Commissioners, I think, did not consider that, on account of his age, which was 61 at the time of appointment, a certificate should be granted, and accordingly his appointment is during the pleasure of the Court.

59,637. Had he served previously with the Crofters Commission?—No, he had not.

59,638. Then, apart from the typist you mentioned, he is the only member of the staff not pensionable?—He is the only member of the staff in that position.

59,639. Do you think the present system of appointment is the best system?—It is a good system; we have got very good men by it.

59,640. You are satisfied with the system?—I am satisfied. Of course, it has recently been instituted by the Act of Parliament. The method adopted for the Crofters Commission has been confirmed and instituted, and, as far as it has gone, it has been a good system.

59,641. Open competition has been suggested as the means of filling the junior appointments in the legal departments. Would that be applicable, do you think, to the Department of the Land Court?—I do not think it would be so good as the present system, by which they have to pass a qualifying examination. I have been an examiner of law agents and of graduates in a university for many years. A competitive examination, especially if followed by an oral examination, does adequately test the amount of knowledge a man has acquired, or that has been put into him; but it does not test other qualities—practical ability and industry, and the kind of experience which we find desirable.

59,642. You prefer, therefore, the method of selection from persons possessing the necessary qualifications accompanied by a qualifying examination?—Yes; I think that gives us the kind of man we want for our work.

59,643. Is it your view that the higher posts under the Court should be filled by promotion from the lower posts, or will it be necessary to make appointments direct from outside?—I do not think at present it will be necessary to make appointments from outside. We should certainly prefer, other things being equal, that promotion should take place inside the office.

59,644. You have told us that for the depute clerks the Land Court have laid it down that they should be either qualified law agents or advocates?—Yes.

59,645. The assistant clerks, I suppose, do not possess that qualification?—We do not require it, and we could not, as a rule, expect a duly qualified solicitor who is in practice on his own account, to take a salary of 120*l.* a year rising to 200*l.*

59,646. Would not that make a difficulty as regards filling the higher posts by promotion from the lower posts?—In that case, if we had not a qualified man among the assistant clerks, we should have to take a qualified solicitor from outside.

59,647. Is it possible for an assistant clerk to acquire the law agent's qualification while in the office?—Yes. In point of fact one of our four junior clerks is a qualified solicitor. He was in the Congested District Board's Office and was transferred to the

Board of Agriculture for Scotland, and from the Board of Agriculture he came to us.

59,648. To acquire the law agent's qualification, it is necessary to pass certain examinations and to have served a certain apprenticeship?—That is so.

59,649. The examinations, presumably, they can pass while serving the office, but can they acquire the qualification as regards apprenticeship?—I think it would be difficult certainly while doing the work in the office, but I think it could be acquired.

59,650. The work in the office, I suppose, does not count as apprenticeship?—No.

59,651. Would they in any case have served an apprenticeship before entering the office? The men who are appointed to the office come from law agents' offices, do they not?—I think none of our present staff except the gentleman who came from the Board of Agriculture as a qualified solicitor, have served an apprenticeship. It could be done, but it would need a great deal of work at night.

59,652. None of them had served an apprenticeship before entering the office?—None of them had served an apprenticeship before entering the office.

59,653. It would seem, therefore, that that would create a considerable bar to the possibilities of promotion from inside the office?—Yes, I think there would be difficulties in the way.

59,654. If a man was fully qualified as regards his knowledge and acquirements, it would be possible, I suppose, for the Land Commission in suitable cases to modify that rule which they have laid down?—Yes, it would be possible for a member of our staff to qualify by taking university classes, because the law classes are usually early in the morning or late at night. He could serve an apprenticeship outside, but it would mean that he would have to do a good deal of very late night work.

59,655. Another suggestion that has been made with regard to certain legal offices is that the appointment should be by the Secretary for Scotland, advised by a committee of selection. Would that, do you think, be a suitable method?—Yes, I do not think that would be at all an unsuitable method, but whether it is worth while applying that to junior clerkships, is, of course, more a question for the Commission than for me. That method might work quite well.

59,656. You see no objection to it from the point of view of the Land Court?—I see no objection to it. I think the experience of most bodies with patronage of that kind is, that while it is naturally to their own interest to get the very best man, because if they did not the trouble just falls back on themselves, at the same time I think that no desire of keeping patronage would influence them in saying that for that reason the present system should be retained. I would only say that if the Royal Commission should think that that is a good system for similar bodies—for other judicial bodies—then I would not say that we should be made an exception. On the other hand, I do not see any reason why we should be made an exception the other way, and why, if there is no general change, the system so recently instituted by Act of Parliament should be changed in our case.

59,657. We have heard from a number of witnesses that in the case of many legal appointments in Scotland political services have largely been taken into account. Has that been the case at all with regard to appointments under the Land Court?—I can only say that I think none of us inquired, and none of us knew—I do not know yet—what the political or religious opinions of the depute clerks or the assistant clerks are.

59,658. So your answer is that that consideration did not enter at all into the appointments?—Certainly not. I have always heard members of one party admit freely that the members of the other party made their appointments on that principle.

59,659. When your staff was originally formed, were steps taken to invite applications?—We did not advertise.

59,660. Did you have many applicants?—We had a very large number. Many came to us direct. Many

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were addressed to the Scottish Office, and were forwarded by the Scottish Office to us.

59,661. It had become widely known that a staff was to be appointed?—That is so. I cannot commit myself to a definite number, but I know I was for a fortnight doing little else except going through the applications and making out a list of persons who might be considered.

59,662. What was the practical method of selection from among the candidates?—The practical method of selection was this: I think there were somewhere about 500 applications, giving a wide figure. Some were for definite posts; others were just for a post, and they were accompanied in most cases by a statement of qualifications and testimonials from legal employers and others, and so on. We began by making up different lists. The first was a list of persons qualified *primâ facie* to be selected from it as depute clerks of Court. Then we made a separate list for assistant clerks, and soon, and then one for surveyors and assistant surveyors. I think in that way we reduced the number to about 20 persons for depute clerks, and to about 50 persons for assistant clerk and others. I do not know that I am giving the exact figures, but they come very near it.

59,663. Did you then have personal interviews with those whose names were on the short lists?—Then we made personal inquiries as to those persons on these lists, and had personal interviews with most of them. For the depute clerks we came down to a short list of four, I think, and then we interviewed particularly these gentlemen.

59,664. Have there been any vacancies since the first formation of the staff?—No.

59,665. Would it be your practice to give public notification of vacancies when there are any?—We have not done it.

59,666. The occasion has not arisen yet?—It has not arisen. I think if we had not any considerable number of applicants we should certainly do so, but hitherto our difficulty has been the other way; we have had a great number of applicants.

59,667. What is the organisation of your staff? Is the Principal Clerk in charge of the discipline and distribution of the work?—That is so, and in his absence the senior member of the staff present in the Edinburgh office.

59,668. That works satisfactorily?—It does.

59,669. What are the hours of attendance?—In Edinburgh, at the office, the regular hours of attendance are from 10 a.m. to 5 p.m. on weekdays except Saturdays, when they are from 10 a.m. to 1 o'clock. During these hours the office is open to members of the public interested who call. Since the Court was constituted the staff have, with fair regularity, worked overtime beyond these seven hours.

59,670. (Mr. Philip Snowden.) Are they paid extra for overtime?—The junior assistant clerks have received an allowance for overtime in the Edinburgh office—I think it came to about 100l. a year.

59,671. (Chairman.) Do the members of the staff who go round to local sittings have longer hours than that?—They all of them very often have longer hours at local sittings. For instance, the Court frequently sits from half-past 10 or 11 to 7 or 8 at night. We have sat longer. There is always a good deal of night work after the Court has adjourned its sittings. Ten to twelve hours is quite a common day's work when we are sitting in the country.

59,672. Do the vacations follow the vacations of the Court of Session?—Not as yet. We have never fixed a spring vacation. The autumn vacation is supposed to be August and September, but one or more Courts have usually sat on until well on in August, to the 15th or 20th, and have begun sittings in the latter part of September.

59,673. As regards vacations, your work is more arduous than the work of the Court of Session?—One of the judges sits for the vacation work. I think 11 of the judges take vacation work in turn, but we have not a spring vacation of six weeks.

59,674. I gather from what you have said that you go rather on the principle of making the staff inter-

changeable as far as possible, each member taking up other duties as required. That is so. I do not think we could put them into compartments.

59,675. That, I suppose, is partly rendered necessary by the local nature of your work?—That is so, part of it being done centrally, but a great deal of it in the country, and therefore, both with regard to the work and with regard to possible promotions also, it is desirable that every one of the assistant clerks should be able to take the work of any other, and any one of the depute clerks is able to take up the work of any other.

59,676. (Mr. Philip Snowden.) Are the lay members of the Court permanent appointments?—Yes.

59,677. Are they paid?—Their salaries are paid out of the Consolidated Fund.

59,678. What is the amount of the individual salary?—1,200l. a year each.

59,679. (Sir George Paul.) That is fixed by statute?—Yes, by the Act of 1911.

59,680. (Mr. Philip Snowden.) Are the present lay members of the Court transfers from the Crofters Commission?—No. The two lay experts on the Crofters Commission retired.

59,681. These lay members have been appointed not on account of their legal knowledge, but, I suppose, on account of their practical knowledge of the land question?—That is so. I think they have all farmed their own land, and have been managers of landed estates, and have had large experience in agricultural arbitrations and valuations.

59,682. I take it that, seeing you have had no vacancies in your staff yet, the question of promotion has not arisen?—It has not arisen, and I have stated the lines on which we should probably go.

59,683. Supposing you had a vacancy amongst your depute clerks, would you take into consideration the likelihood of any of the present staff below that grade being suitable for the appointment?—Certainly. For instance, one of our assistant clerks who was transferred from the Board of Agriculture is a qualified solicitor.

59,684. How did he acquire the necessary qualifications of service in a solicitor's office—the apprenticeship?—He did acquire it in the ordinary way.

59,685. In regard to your answers to the Chairman on that point, there seems to me to be an insuperable difficulty in the way of the assistant clerks who had not that qualification of service before they entered your Court acquiring it during your service?—I would not go so far as to say it is insuperable, but it certainly would be very difficult. It would require a great deal of very late night work. It would be legally possible, and I think one of our staff, who is at present an officer in one of the Territorial regiments, the clerk of accounts, proposed to acquire it.

59,686. (Chairman.) Did the assistant clerk who has the qualification of law agent acquire it before he entered the Government service at all?—He acquired it before he entered the service of the Board of Agriculture.

59,687. He acquired the qualification first in the outside profession?—That is so.

59,688. He then entered the service of the Board of Agriculture and was subsequently transferred to the Land Court?—Yes, he entered, I think, as a very young man, when he was just 21.

59,689. (Mr. Philip Snowden.) Is it necessary, shall I say, that to become a solicitor in Scotland the person should have served his articles as is the case in England?—He must serve articles for at least three years, or for five years if he is not a graduate in arts of a university.

59,690. Then how would it be possible for an assistant clerk serving in your office to get a qualification like that?—He could only do it by entering as an apprentice with an Edinburgh solicitor, and doing the night work of the office after 7 o'clock at night.

59,691. And run the two things together?—Yes, that is the only way that I think he could acquire it.

59,692. Do you consider, then, that it is absolutely essential for the work of the depute clerk that he should be a qualified solicitor or advocate? May I add this: Do you think that the experience and knowledge that a smart assistant clerk would acquire in the course

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of several years' work in your office would be equal to the qualifications that he might have as a solicitor before entering the office?—I think that is quite possible. The difficulty would rather lie in this, that any legal assessor is almost always, in practice, a qualified solicitor or member of the Bar, and therefore there would not be the same confidence in the opinion of a man who had not that qualification though the opinions might, I quite admit, be quite as good opinions in themselves in particular cases.

59,693. Was your typist appointed under some system of competition?—Not open competition.

59,694. Did she have to qualify?—There was a qualifying examination.

59,695. Is she on a Civil Service scale of salary?—Yes.

59,696. How did it happen that she was not able to pass the medical examination?—That is the third of the female typists. Two of them did pass the medical examination.

59,697. How did it happen that the third one was not able to pass the medical examination. I should have assumed that that was a condition of appointment?—I think she had a weakness in the chest. At the same time she had been with us for a considerable time and not been absent a single day from illness. We regard her appointment as temporary. She may still pass the medical examination.

59,698. I want a little further information about this man who holds the post of Keeper of the Rolls, and who was appointed at 61 years of age. What is the salary attaching to that post?—200*l.* rising by 10*l.* to 300*l.*

59,699. How long is it since he was appointed?—He was appointed shortly after the Land Court was instituted.

59,700. Was that an appointment made directly by the Secretary for Scotland?—No, that was one of the appointments made by the Land Court. The Principal Clerk is the one appointed by the Secretary for Scotland.

59,701.—Then you as Chairman of the Court would be really responsible for the appointment of this official?—Undoubtedly, but we all went through the particular appointments.

59,702. Just so, but I shall be able to get the information I seek first hand. What induced you to appoint a man 61 years of age to this post?—For this reason, that he was a person who had written largely upon and taken a great interest in the land question, and he had a very large knowledge of the local conditions throughout the northern counties.

59,703. What were his antecedents in the way of profession or occupation?—He had been a grain agent and a commission agent in Inverness.

59,704. Was he in business at the time of his appointment?—Yes.

59,705. And he was willing to give up his business and come to you for 200*l.* a year?—Yes; he did it.

59,706. (*Mr. Graham Wallas.*) May I ask the name of the gentleman in question?—Mr. Duncan McTavish.

59,707. Had he been to your knowledge either an agent or candidate at an election?—He had never been a candidate at an election that I know of.

59,708. Had he been an agent?—No, I do not think he was an election agent or sub-agent.

59,709. Had he been an active politician?—He was president of the County Liberal Association for a great many years, and he had taken a great interest in this question, certainly.

59,710. His certificate was refused by the Civil Service Commission?—Yes.

59,711. Doubtless we can get from the Civil Service Commission a statement as to the reasons for their refusal?—I understood his age was the reason.

59,712. The appointment was not made conditional upon his getting a certificate?—The appointment was made by the Court, and we probably expected at the time that a certificate would be given.

59,713. What results upon the refusal of a certificate?—That he is not pensionable, and that his appointment instead of being under Civil Service rules is just during the pleasure of the Court.

59,714. That is to say, in your judgment, he will probably hold it for life?—I do not say that.

59,715. But if you are appointed at 61, and the Civil Service rules require you to retire at 65, you get a very small pension, do you not?—Yes.

59,716. Therefore it is a clear advantage to a man who is appointed at 61 to be refused a certificate by the Civil Service Commission, because instead of getting four years with a minute pension he gets what may prove to be a life appointment?—It is no doubt possible.

59,717. You say the Court appoints. Does appointment by the Court mean an appointment by a majority of those present and voting of the five persons constituting the Court?—It would. I do not know that we had a division, but all the members of the Court did consider the applications.

59,718. Have you ever known a division take place on an appointment of that kind, and an appointment carried by a majority?—I do not recollect that any appointment went to a vote.

59,719. The Secretary for Scotland appointed your Principal Clerk, but appointed him originally on the Crofters Commission?—The Crofters Commission appointed their whole staff under their Act. The present Principal Clerk was appointed by the three members of the Crofters Commission.

59,720. Do you remember whether he had been either a candidate or an agent at an election, or president of a political association?—I do not think so, but I cannot say.

59,721. You do not happen to remember?—I had no connection with the Crofters Commission at that time. I could not now say what Mr. Mackenzie's political opinions are—I have never inquired.

59,722. Do you know whether the rule that appointments in the legal departments are political applied to the four lay members of your Court. Do you know whether they had been active politicians with political claims?—I can certainly say that I have never publicly or otherwise heard of any of them except, at most, two as politicians. One I knew was a member of the Conservative party. I knew that one other of the appointed members belonged to the Liberal party. With regard to the other two, as far as I know yet, or knew then, they had no definite connection with either political party, but I did not inquire, certainly.

59,723. (*Miss Haldane.*) How do you select the women typists? How do you find them?—We just get a list of names and particulars of their experience and the examinations they have passed, and we test them personally, and then they pass the Civil Service examination for typists.

59,724. How do you get the list. Who forms the list?—In our particular case we only wanted two, and then another one. The Principal Clerk formed the list.

59,725. How did you procure the names?—One of the ladies, Miss Reid, the senior, had been doing work, though she had not been paid out of public funds, for the Crofters Commission for a year or more before, so she really was a transfer.

59,726. The Principal Clerk simply fixed on certain individuals. Was that how it was done?—Yes, in that case.

59,727. There was no announcement that typists were required, so that other people might apply?—There was no advertisement, certainly.

59,728. He simply nominated them?—We selected them. We considered their qualifications, and then they passed their examinations.

59,729. But he brought them before your notice from his own private knowledge?—That is so.

59,730. I want to know whether there is any possibility of women rising to be assistant clerks. As I understand, one objection to that happening in many cases is that a legal qualification is necessary, but in this instance a legal qualification is not required. Would it be possible for women to qualify for the assistant clerkships?—Certainly, I hope some of them will, if they have had experience in a solicitor's office or in the legal department of a public office.

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59,731. Was it considered in appointing them that they might be women of that type who would have the power of rising, possibly, to assistant clerkships?—I do not think it was, for this reason, that I do not know as yet of any case in Edinburgh where women are doing regular work as solicitors' clerks.

59,732. I think we had evidence that it was done to a certain extent in Glasgow?—I think in Glasgow there are a good many women copying clerks.

59,733. Would there be any objection to appointing a Glasgow typist?—Not the least.

59,734. I was going to suggest that if it had been somewhat more open others would have had the opportunity of competing for these posts?—That is so, but at the same time our typists have no superiority in any way over ordinary typists in Government offices. They are in the same position as typists in any other Government office.

59,735. At present their position is the same, but I want to know if in your opinion they might rise, seeing that there is no barrier as there is in other Government offices?—We have made no barrier, certainly.

59,736. There is no barrier, really?—There is no barrier. I think it would be quite competent for us to put a typist a step higher, if she were sufficiently qualified, and employ her as assistant clerk in the office. We have certainly not negatived that in any way.

59,737. No, but you have not made any regular ladder of promotion from the typists upwards?—That is so.

59,738. With regard to the committee of selection, have you thought of the possibility of there being a Civil Service Commissioner representing Scotland on such a committee of selection? Perhaps you have not considered the matter?—No, I do not think that suggestion has been made to me. It would depend very much on the number of appointments and the number of different departments in which the appointments were with which they had to deal.

59,739. (*Sir George Paul.*) As regards typists, if you found that one of your women typists was qualified for promotion, nothing would stand in the way so far as you know?—Nothing stands in the way.

59,740. As regards a vacancy, I suppose if you found a suitable man in the office you would naturally promote him rather than go outside?—Certainly, other things being equal, we would naturally promote him.

59,741. If you found a man whom you were quite satisfied you could promote, you would do so?—Suppose, by way of illustration, that the present senior Depute Clerk were to become Principal Clerk—that does not depend on us, but it might happen—then merit being equal, the next Depute Clerk would succeed to his place.

59,742. That is what I was assuming?—Certainly. In the same way with the assistant clerks we should, if there was a vacancy, for example, if the senior assistant clerk retired, or were promoted to anywhere else, merit being equal, take the next clerk.

59,743. Then is it simply an office rule that the clerks should be qualified law agents. It is a rule gathered from your office experience, and is not statutory?—It is not statutory. It just arises from this, that, as far as I know, invariably the legal assessor to a magistrate, or any person sitting judicially, is a person with a legal qualification. As I said, a person who had not a legal qualification would not be trusted to the same extent by persons concerned in cases before the Court.

59,744. It is known in Scotland that Mr. Mackenzie is a very competent man. Is he a qualified law agent?—No, but then he has never acted as legal assessor to the Court. I think we should be very fortunate if we got another Principal Clerk as efficient as Mr. Mackenzie.

59,745. Then if one of your clerks had considerable experience in the office, and also had attended law classes, and had obtained certificates from his professors, would you consider that as equivalent to apprenticeship? As an office rule, might that qualify him for promotion?—I think it would be competent. There is nothing against the competency of appointing such a man.

59,746. So that you practically have a free hand?—We have a free hand.

59,747. Within certain limits?—Within certain limits.

59,748. And you might bring that case within the limit?—I think it would be competent to do it.

59,749. (*Mr. Shipley.*) The only question I want to ask is, how is your Court financed?—The salaries of the Chairman and the members of the Court are paid out of the Consolidated Fund. All other expenses are paid out of moneys voted by Parliament.

59,750. They are not paid out of fees?—There is one exception, though a small one, where the expenses are really paid or recouped to a certain extent by fees, but that relates solely to the clerks of the local Sheriff Courts, which correspond roughly to the County Court. They perform certain services for us, and they are paid by fees fixed by the Court, with the approval of the Treasury, varying from 6d. to 15s., fees which are paid by means of adhesive stamps. To that extent our expenses, so far as they relate to these particular duties of the Sheriff Clerks, are recouped by fees; they may not be recouped in the same year, but they are recouped.

59,751. (*Mr. Philip Snowden.*) Referring to the appointment of Mr. Duncan McTavish, may I ask whether you had any representations or recommendations made to you from political quarters?—None whatever. I may say with regard to none of the applications that I remember was there any recommendation from any political official of any party.

59,752. Do you lay it down as a rule that an officer in your department must possess the Civil Service certificate?—If he were to receive a pension, of course he must either be transferred or admitted to the office with the certificate of the Civil Service Commissioners under Section 7 of the Order in Council of 1910.

59,753. Then you might appoint a man to a post and make no application at all to the Civil Service Commissioners for endorsement?—It is possible.

59,754. Who fixes the scales of salary?—The scales of salary were fixed by the Treasury on the recommendation of the Scottish Office after consultation with us, and I think the scales of salary, if I recollect rightly, were all fixed before the question of appointments began. The main scale certainly was fixed quite apart from appointments, though not formally agreed to, before we had begun considering any of the applicants for the new posts, as distinguished from the posts filled by transference.

59,755. Was Mr. Duncan McTavish the first person to hold this post?—Yes.

59,756. He was appointed on the formation of the Court?—That is so.

59,757. His appointment is slightly better than the post of assistant clerk?—Yes; he is also an additional clerk of Court, and that is partly why it is slightly better.

59,758. Then there were not, among these numerous applications that you had, younger men whom you considered qualified?—I would not say that. There were men of all ages. I think we had some venerable applicants over 70 years of age.

59,759. To sum up the matter, we may take it that Mr. Duncan McTavish was appointed because of the great interest he had taken in land questions?—No doubt, and his knowledge of the counties chiefly concerned.

59,760. Because of his local knowledge?—Yes; and also his knowledge of Gaelic, which is important.

59,761. And his good Highland name?—There is a commodity of good names in the Highlands; but I do not think we considered the merits of various clans.

59,762. (*Chairman.*) Do the Orders in Council which regulate the Civil Service apply to your staff?—Generally they do. Of course, we have no second division clerks.

59,763. They apply, for instance, as regards age for retirement?—That is so.

59,764. And also as regards such matters as sick leave?—Yes.

Mr. EDWARD PETER THOMSON, W.S. (Principal Extractor of the Court of Session), called and examined.

59,765. (*Chairman.*) You are Principal Extractor of the Court of Session?—That is so.

59,766. How long have you held that office?—Nine years; since August 1906.

59,767. What had been your professional experience before that?—I was admitted a member of the Society of Writers to the Signet in July 1885, and I had practised the profession for 21 years previous to my appointment.

59,768. Will you tell us generally, first, what work is done by your department?—The main work of the Extractor's Department consists of the preparation and issue of extracts of the Acts and Decrees pronounced by the Court of Session. It may be well to remark that, while the English "Certificate of Judgment" is as nearly as may be the equivalent of a Court of Session extract, the extract seems to be a more elaborate and complex document, and the great variety in the nature of the various causes, renders it quite impossible to standardise the extracts, or to reduce them to one simple or uniform form. Extracts dealing with heritable rights and those in entail proceedings form a link in the title deeds of properties, and in some cases extend to many pages. In one case since my appointment, eight years ago, I have had occasion to sign an extract over 400 pages of foolscap in length. This, of course, was quite exceptional, the Decree in question being an authority to complete a title to a very large number of properties belonging to a trust, and the unusual length being due to the necessity of each property being fully described; but extracts of from 20 to 100 pages are not infrequent.

59,769. In the case of that particular extract you mention, the great length would simply be due to the repetition of the verbal description of the number of different properties?—That is so.

59,770. So that would be a mere matter of copying, and would not add to the complexity of the document?—More or less, subject to this remark, that the heritable subjects are described in the prayer of the petition to the Court in such cases. The Court's interlocutor grants warrant, say, to complete a title to the subjects described in the prayer of the petition. It is necessary to read over very carefully the description in the petition, because it is quite possible that phrases might occur in the course of the description which might not be applicable to the extract. In this way we have to be very careful of a word which comes in sometimes in the course of the description of property—"the said so and so," or "the said subject." The word "said" comes in frequently, referring to a full description, either of subjects or of persons, which occurs, not in the prayer of the petition, but in the body of it; and sometimes we have to search until we can find out the full description. Of course, it would not do to put the words "the said so and so" in our extract if he were not previously described.

59,771. The extract has to be an independent document to be read without reference to any other document?—That is so; it must be entirely self-contained; and really the task of preparing an extract consists in making the document self-contained, so that it can be intelligible to anyone who reads it without reference to any other document.

59,772. Has your department any other work besides the preparation of extracts?—The Register of the Acts and Decrees of the Court of Session, and making duplicates of the extracts and decrees issued. We make a complete duplicate of each extract, and those duplicates are bound up in volume form, and are subsequently transmitted in volumes to the Deputy Clerk Register.

59,773. Their subsequent custody rests with him?—Their subsequent custody rests with him, and so long as they are in my office I regard myself—after an extract has been finally issued—as his representative, so far as custody is concerned; and that also applies not only to the volumes themselves, but to the processes, consisting of all the documents dealing with the case.

59,774. You hand the process together with the record copy of the extract to the Deputy Clerk Register.

ter for final custody?—Yes. In a large case the process may consist of over 100 numbers, and in exceptional cases more than that. Those processes require to be very carefully examined to see that they are all in order and that no numbers of the process are missing. They are also bound up in parcels and transmitted to the Deputy Clerk Register. We require the special authority of the Court to accept any process which is defective, and that very frequently happens. It happens in the course of every week or two that a case occurs in which some important number of a process, although it may not be an essential number, has become missing and cannot be found. In that case the agent applies to the judge, who pronounces an interlocutor dispensing with its production, and authorising the Extractor to issue an extract without it.

59,775. What is your staff for dealing with these matters?—The staff consists of myself as Principal Extractor, my Assistant Extractor, the Clerk of Records, and the engrossing clerks, of whom there are now three. Formerly there were four, but I reduced the number of them two or three months ago, and I succeeded in effecting a very much and long desired reform in getting those clerks paid by salary instead of by the piece. Formerly they were paid 6*d.* a page, and that was a practice which I found extremely undesirable in every way.

59,776. The Committee on Minor Legal Appointments made a recommendation on that subject?—That is so.

59,777. And that recommendation has been carried into effect?—It has been carried into effect within the last three months, and the results are satisfactory already.

59,778. Has it been long enough in operation to enable you to make a comparison between the amount of work done by each clerk under the former system and under the present system?—Hardly; but at the same time I may add that during the last three months the department has been exceptionally busy; there has been more work than usual, and the work has been turned out, I think, on the whole, better than usual and more quickly than usual.

59,779. At the same time, you have been able to dispense with one of the four clerks?—That is so.

59,780. That would appear to indicate that more work is done by each clerk now, unless they were not fully employed before?—Distinctly; they are busier than they were before, and they work harder.

59,781. (*Sir George Paul.*) Have you been able to shorten the extracts?—Yes.

59,782. Is that how the improvement arises?—It has not arisen through that; but during the last two or three years there has been very little work, and not nearly enough for the four engrossers, with the result that they suffered and their income was very much reduced. Now the three men are doing all the work, and doing it better, because they feel that they are secure in their salaries.

59,783. (*Chairman.*) The recommendation of the Committee on Minor Legal Appointments, as regards the omission of the Long Warrant, has been carried out?—It has not been carried out. I have submitted to the Lord Advocate and several Scottish members of Parliament a Bill which would carry that into effect.

59,784. Is legislation required in order to carry it into effect?—It distinctly requires legislation. The Long Warrant is statutory, and the Lord Advocate does not indicate that there is any prospect in this session of having the Bill carried through, although it is non-controversial, and has the support of all the Scottish members connected with the legal profession.

59,785. You hold your own appointment from the Crown?—I do.

59,786. Is any limit of age fixed in your warrant?—70.

59,787. How were the other members of your staff appointed?—They all hold office subject to my pleasure. They hold their appointments from me, and they can be dismissed at any time by the Principal Extractor.

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[Continued.]

59,788. Is any limit of age fixed in their case?—There is no limit.

59,789. What are the ages at present of the members of your staff?—The Assistant Extractor, Mr. Whyte, has been in the service of the department for, I think, 54 years. His age is 75 in August of this year. The other official Clerk of Records, who attends to the public office and whose work is very arduous and varied, I think would be a man of from 45 to 50. The three engrossing clerks are men of middle age. I think one of the three is perhaps between 30 and 40, and the others are about 50, but they are all pretty well on in years.

59,790. Are you required to give your whole time to the work of your office?—I am.

59,791. You are not allowed to take private practice?—I am precluded from private practice.

59,792. Was that so in the case of your predecessors also?—It was the case in regard to my immediate predecessor, Mr. Glen, who held office for nine years. It was not the case in regard to his predecessor, Mr. William Duncan, who carried on a large practice, and who died at the age of 87 in office.

59,793. He did not perform the duties in person?—He did not; and I may say that I do not think my predecessor performed the duties in person either. I ascertained when I went to the office that he had satisfied himself with revising the drafts, which were all prepared by the assistant, and signing the extracts.

59,794. Do you perform the duties personally?—I do personally. I draft every extract that comes out of the office. I found that the work of the office was very much in arrear, and I knew from my own experience during the 21 years I was in practice, that it was a very common complaint upon the part of members of the profession that it took a long time to get an extract out of the department. I set myself at once to see if that could not be remedied, and I think the profession generally are satisfied that they get extracts now as quickly as can possibly be managed, and the Parliamentary Committee reported to that effect in their report.

59,795. The other members of your staff, being appointed by the Extractor and dismissible by him, are, I suppose, not pensionable?—They are not, subject to this exception: that in the Clerks of Session Act, 1889, there is a clause enabling the Treasury to grant superannuation to persons serving in the Court of Session at the date of the passing of the Act in all respects as if they had been admitted to their respective offices with certificates from the Civil Service Commissioners or held their appointments direct from the Crown. That clause was inserted in the Act, as I understand, to make special provision for persons in the position of my assistant, Mr. Whyte; and he labours under a very heavy grievance, and has done so for years, ever since that Act was passed, in respect of the refusal hitherto of the Treasury to allow him to retire upon a pension or superannuation.

59,796. Did the Committee on Minor Legal Appointments make a recommendation on that point?—A very strong recommendation, which is contained on page 7 of their report. They bear witness that Mr. Whyte's case demands very special consideration, and they state that for a long time prior to 1906, which was the year of my own appointment, the main work of the Extractor's Department was thrown upon Mr. Whyte, and the profession agree that he discharged his duties admirably. The Committee, in their report, further refer to this clause which I have quoted, and they add: "In our opinion it is not in any way stretching the Act to hold that it applies to the Extractor's Department of the Court of Session. We desire to record our opinion that Mr. Whyte has strong claims to be favourably considered by the Treasury, and that it would be only a tardy act of justice if he were now placed in the same position as he would have been if the Bill passed in its original form."

59,797. To what does that last sentence refer?—I have a copy of the Bill as originally introduced into the House of Commons, and it was there enacted that the Assistant Extractor of the Court of Session, the Clerk of Records, a public official attending to the public

office, should receive their appointments direct from the Crown the same as other officials dealt with by the Act. When the Bill emerged in the form of an Act, the assistant extractor and the Clerk of Records did not appear in it, and that, I understand—in fact, it is well known—was due to the interposition of the then Principal Extractor Mr. William Duncan. He was over 80 at the time, but he did not wish to be deprived of the privilege of appointing his assistant and the rest of his staff, and he brought pressure to bear upon the then Lord Advocate at the close of a busy Parliamentary Session, with the result that the Lord Advocate, rather than lose the Bill, as there seemed some signs of his doing, omitted those two officials from the provision. I know that Mr. Duncan told Mr. Whyte, who was naturally very much upset at the disappointment of his hopes, that he considered this clause giving the option to the Treasury would keep him right as regards his pension. So far, I may say that no direct application has been made to the Treasury since my appointment, but they have declined on previous occasions to grant Mr. Whyte superannuation rights.

59,798. Has any application been made to the Treasury since the report of the Committee of 1911?—No, not directly.

59,799. So that the Treasury have not directly declined to carry out the recommendation of that Committee?—Not in the meantime. The matter is a little delicate. I feel, personally, that my position is rather difficult in the matter. Mr. Whyte is still able to do his work so far, but he might break down at any moment at his age, in which case I should feel myself in a most painful position if I were faced with the alternative either of dispensing with his services with no provision made, or else continuing to work along with him when he was unable to do his work.

59,800. You mentioned that in the Bill, or in the Act of 1889, it was proposed to take away the patronage of these appointments in the Extractor's Department from the Extractor himself and make them Crown appointments?—That is so.

59,801. Is it your opinion that that is what should be done?—It is. I think it is a most desirable change.

59,802. What reason is there for making them Crown appointments?—So far as I know they are the only appointments in connection with the Court of Session which are not appointments by Crown Commission. Clerks of Court are all appointed by the Crown.

59,803. Is there any reason why they should not be appointments by the Secretary for Scotland on a Civil Service basis?—I am not quite sure of the alternative suggested.

59,804. The effect of Crown appointment is to remove the requirement of the Civil Service certificate on admission, with its accompaniment of medical examination and satisfaction of the Civil Service Commissioners as to character and fitness. It also exempts the holder of the office from the ordinary Civil Service rules as regards age for retirement and so forth. Is there any reason why those characteristics of a Crown appointment should apply in the case of these particular appointments?—I should be inclined to take it that efficiency in all those appointments depends upon legal experience and some acquaintance with legal practice in the courts. I am not sure that that would be secured by Civil Service examination.

59,805. That is a separate question. The method of selection by the Secretary for Scotland might be such as to secure that those qualifications, should be possessed by the persons appointed?—That is so. I should certainly advocate, if those appointments are made Crown appointments, that there be some provision that the persons appointed have passed the Law Agents examination and been qualified law agents or solicitors.

59,806. You think that is necessary for such appointments?—Yes, I think it is eminently desirable.

59,807. You apply that to the two appointments of Assistant Extractor and Clerk of the Records?—I do.

59,808. As I understand it, you think that the appointments should not be made by the Extractor himself, but you do not attach importance to their being Crown appointments?—No, I do not, so long

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as you secure that the person appointed has some legal experience, and is accustomed to deal with Court of Session practice and had some experience in it; then, I think, you have all the necessary qualifications.

59,809. Were there any other recommendations with regard to your department made by the Committee of 1911?—There is a strong recommendation that the Clerk of Records should be better remunerated.

59,810. Has that been carried out?—That has not been carried out.

59,811. In fact, the only recommendation that has been carried out is that which referred to the engrossing clerks?—That is so; otherwise we are in the same position as we were. Perhaps I may mention that, in carrying out that change with regard to the engrossing clerks, the Treasury suggested—in fact, I rather think they stipulated—that in future appointments we should have lady typists appointed on the occurrence of any vacancy, or at least two of the engrossing clerks should be lady typists.

59,812. That raises the question whether typewriting is suitable for the extracts?—That is so. I have no doubt on that point. I think, if it is sufficiently indelible—which can certainly be secured—the extracts would be better written in typewriting than in manuscript.

59,813. You see no objection to typewriting?—None whatever.

59,814. If typewriting were adopted for the extracts, are you in favour of the appointment of lady typists?—I am, if it could be arranged. The question of accommodation would arise in our present position in the Register House, but if they could get a separate room I should be perfectly satisfied.

59,815. Can your present engrossing clerks typewrite?—No.

59,816. Are they of an age to learn it?—I fear not.

59,817. There would therefore be a certain difficulty during the period of transition?—There would, most distinctly. That is a difficulty which has occurred to me. As long as there are any engrossing clerks left one would require either to type all the extracts and write all the duplicates, or *vice versa*. Now, with two typists and one engrossing clerk, the work would go on at a very irregular pace.

59,818. We have been told that typing is about twice as fast as writing, and therefore it would seem that with two engrossers and one typist the work might be balanced?—I believe it might. You would require two engrossers and one typist, or all typists.

59,819. The question has also been raised whether the Extractor's Department should be brought into closer relation with the other departments of the Court of Session. The suggestion was made before the Committee of 1911 that the extracts might be prepared by the Clerks of Session and deputes. The Committee of 1911 expressed an opinion against that suggestion?—They did; and the representatives of both the legal societies were equally unanimous on the subject. Personally I do not know if my opinion may be regarded as altogether unbiased, but I do consider that at present it would be perfectly impossible for the Clerks of Session to issue their own extracts. I do not think they could do it; they have not the staff to enable them to do it. On the other hand, in our office we examine the process and we examine the interlocutors which the clerks have written very carefully. It is the first occasion on which there is a careful and exhaustive examination made of the papers connected with the case. The Clerks of Court have not the time to do that. The agents have not time to do that while a case is proceeding; they have too many other things to look after. We frequently find irregularities and informalities which require to be corrected; we act as a check both upon the agents who conduct the case and upon the Clerks of Court. We frequently require to send papers back to be corrected. I do not think it would be possible for the Clerks of Court to correct their own work so efficiently as another person can. They write their interlocutors in court, and there may be considerable interruption with a certain amount of distraction, and they have not an opportunity of being so absolutely accurate as is necessary.

59,820. You are clearly of opinion, therefore, that the work of preparing the extracts should continue to be done by a separate branch of the offices of the court?—I am.

59,821. Is there any reason why that branch should not be brought into closer relation with the court by being placed more definitely under the general control of the Principal Clerk of Session, and by establishing a freer system of transfer for the purposes of promotion between that and other branches of the court?—In point of fact the Extractor's Department is under the control of the Principal Clerk of Session. The Extractor's Department was placed on its present basis by the Act of 1 and 2 Victoria, chapter 118, and in that Act the Principal Clerk of Session is instructed to supervise the issue of the extracts and to advise the Extractor in any difficulty after consulting with the Court. I have once or twice required to ask the Principal Clerk to decide on questions of difficulty which had arisen, to relieve me of responsibility. In regard to the question of promotion, I do not know what change could be effected that would secure promotion. I have frequently given strong recommendations in favour of the present Clerk of Records on the occasion of a vacancy among the Clerks of Session, and I think he is eminently fitted to make a good Clerk of Session; otherwise I do not know that the question of promotion arises.

59,822. Is there at present any reason why he should not be selected for appointment as a Depute Clerk of Session?—None whatever, he is perfectly eligible, and he has applied on several occasions.

59,823. Do you think that promotion by transfer of that kind is desirable?—Very desirable.

59,824. The question has been raised as to the transfer to your department of certain of the other minor departments—the Keeper of the Minute Book, for instance?—That is so; the Departmental Committee recommended that that should be done.

59,825. Also the office of the Interim Director of Chancery; would there be any difficulty in making that transfer of work?—I may say at once that I do not think the Interim Director of Chancery is an office that ought to be amalgamated with the Extractor's. It has nothing to do with the Court of Session. The only reason for that suggestion so far is that it appears in the Crown commission, both of myself and my predecessor, as a stipulation that we should be prepared, in the event of it being decided to combine the office of Interim Director of Chancery with that of the Extractor, to undertake the duties of the office at such increased remuneration as might be agreed; but I am not aware that anybody has ever regarded it as desirable or recommended it. I have really never considered that. The transfer of the Minute Book was considered carefully by the Departmental Committee, and they strongly recommended it. That, I think, is a very desirable change; at least it is a change which I should be quite prepared to welcome.

59,826. The work of that branch could be satisfactorily combined with the work of your department?—Yes, I think it could.

59,827. For what reason do you think the work of Chancery could not be combined with your department?—The work is not of a similar character to Court practice. I should imagine that there may be other departments connected with conveyancing more in line with the Director of Chancery than any of the court offices. It has nothing to do with the Court of Session, but has to do with the service of heirs.

59,828. (*Sir George Paul.*) Although nothing to do with the Court of Session it is similar to your department in this, that it extracts the judgments of the Sheriffs of Chancery and the Sheriffs as regards services of heirs?—That is so.

59,829. That is how it would be akin to yours?—Possibly; but I could imagine that the Sheriff Clerk of Chancery might be a more suitable person to undertake those duties, or the Crown Receiver of Rents, which is an office which has not been filled up. I have never heard any one seriously argue in favour of the amalgamation of my department with that of the Interim Director of Chancery, and I have had no occasion

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[Continued.]

to consider it. But personally, of course, I should be very glad to undertake any additional duties on the conditions stated in my Crown commission, and my experience in legal practice would quite enable me to undertake the duties of the Interim Director of Chancery; but I merely express the opinion that the Keeper of the Minute Book would be a more suitable office to amalgamate with mine.

59,830. (*Chairman.*) Could some economy be effected by that transfer?—Distinctly. I understand that the salary of the Keeper of the Minute Book is 300*l.* and the salary of the Assistant Keeper is 200*l.* I was asked if I could undertake the duties with my then staff of four engrossing clerks, and I admitted that that might be possible, but now that my staff of engrossing clerks has been reduced to three I should require to have another appointed.

59,831. The only charge to be set against the economy of the two salaries, amounting to 500*l.* a year, would be the salary of one engrossing clerk?—Subject to any increased remuneration to the Principal Extractor on the terms of my commission. Of course the responsibility of the two offices would be greater than one, but it would leave room for that.

59,832. The Commission have had evidence strongly in favour of the transfer of the offices of the Court of Session from the Register House to the Parliament House or its immediate neighbourhood. Would that transfer, if it could be carried out, be advantageous to the work of your department?—I do not think it would affect my department. We must follow the Clerks of Court and must be beside them, of course.

59,833. If they were transferred to the Parliament House it would naturally follow that your department would be transferred too?—Yes, and that question is, I think, entirely a matter of convenience, certainly not to my staff, but to members of the profession. In 1910 when this question was raised before the Parliamentary Committee, I rather think that one of the legal societies recommended the change, and the other one deprecated it. I do not know what the feeling is now amongst agents with regard to it. There is a good deal to be said both ways, but it is entirely a matter of convenience for the members of the profession who use those offices.

59,834. So far as your office is concerned there would be no objection?—None whatever; it would make no difference.

59,835. (*Sir George Paul.*) In copying the extracts there is no objection to their being typed?—I do not think so.

59,836. You have no female typist?—No.

59,837. Your difficulty is as regards accommodation. You have not very much accommodation?—I have not, and, of course, I have not had any vacancies occurring. I have those three engrossing clerks.

59,838. At present none of your men can type?—None of them.

59,839. And you cannot turn them away?—No.

59,840. And you cannot make vacancies?—No.

59,841. You are under the general supervision of the Principal Clerk of Session?—By Act of Parliament, I am.

59,842. Is that under the Act of 1889?—1838—an older Act.

59,843. The Principal Clerk of Session is made the principal of many of the offices under the Act of 1889, but you are not within that?—We are not.

59,844. But you are under him by virtue of a previous Act?—Yes, the Act of 1838. It is rather a grievance with my assistant that the Extractor's Department has had no legislation affecting it since 1 and 2 Victoria.

59,845. That legislation was attempted, but through Mr. Duncan's influence the clause in favour of the Assistant Extractor and others was struck out?—That is so.

59,846. So they are still in that precarious position that they are entirely dependent upon the Principal Extractor?—That is so.

59,847. Lord Salvesen's Committee recommended that piece-work should be done away with and salaries substituted, and that has been done?—That has been done.

59,848. But nothing has been done as regards Mr. Whyte?—Nothing at all.

59,849. No application has been made?—No application has been made. Mr. Whyte has not indicated to me that he was ready to retire, and I have always felt that it was a little difficult to make another application to the Treasury until he said, "Now I wish to retire."

59,850. But perhaps his reason for not wishing to retire is, that he would have no income on which to retire?—That is so; it is really moving in a circle. The Treasury refused to put him on the superannuation list before my appointment and it has been a grievance with him ever since.

59,851. But following upon the strong recommendation of Lord Salvesen's Committee nothing has been done?—Nothing has been done.

59,852. And Mr. Whyte is 75?—Yes, in August.

59,853. Some people do not think that 75 is very old, but is it not time that he should be thinking of retiring if you could get a pension for him?—If I could secure him a pension I should certainly ask him to retire now, because he is rather old for the work, and one feels that he might break down at any moment.

59,854. (*Miss Haldane.*) With regard to the typists, do you think it desirable that they should be brought in under Civil Service rules or in some other way?—I do not know what other way there could be, unless they were simply left to be appointed to hold office on a precarious tenure, as the engrossing clerks are; and I should think it more desirable that they should be Civil Service appointments.

59,855. Would they require some amount of legal knowledge before they came in?—No.

59,856. But you think ordinary typists could do the work quite well?—They could.

59,857. You know the salaries of ordinary typists are less than the salaries you are now paying to the engrossing clerks?—Very distinctly so.

59,858. Would you consider that it would be desirable they should have some opportunity of promotion?—Yes.

59,859. Can you see any way of accomplishing that end?—That the lady typists should have promotion from my department to another, I am afraid not.

59,860. Promotion is impossible in your department at present?—It would be, certainly.

59,861. What would you consider should be their future, because if appointed on those terms they would have nothing to look forward to, so to speak?—They would not, so I think it is most desirable that they should have Civil Service appointments.

59,862. But in addition to that they would have no opportunity of being promoted, as things are just now?—No; but I understand, if they passed the Civil Service examination they would be pensionable.

59,863. They would be pensionable, but they would have no opportunity of promotion?—No, I fear not.

59,864. Do you think the desirable thing would be that they should be admitted to the profession and thereby allowed to be promoted?—That is a very controversial subject. Personally, I should be very pleased to see ladies enabled to get promotion in the profession, if they desired it.

59,865. But as a matter of principle you think it desirable that people occupying such posts should have something to look forward to?—Undoubtedly.

59,866. It makes them do their work better?—Unquestionably.

59,867. You do not lay any stress upon the point about typing, which has been brought forward sometimes, that there is greater possibility of erasure in connection with typing than with ordinary writing?—I suppose that is so, but the Court sanctions the typing of most important deeds in Scotland, and have also decided that summonses may be typed.

59,868. You do not think it a practical difficulty?—I do not.

59,869. Probably the typing ought to be in good ink, and so on?—Yes, very indelible ink.

59,870. (*Chairman.*) In the case of extracts, a duplicate copy remains among the official records?—It does.

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[Continued.]

59,871. That would be a check on any alteration in the copy issued?—I should certainly admonish any lady typist who came into my employment, as I do my engrossing clerks, that in all circumstances they must avoid making erasures, and that if they make a mistake they must either correct it in some way that would be absolutely visible or write the page over again.

59,872. That is the rule in formal documents?—That is the rule. We press it on our employés. I think the Professor of Conveyancing impresses it on his students, and I think members of the profession are in the habit of impressing it upon their clerks; and I certainly should impress it very strongly upon any lady typists.

59,873. (*Sir George Paul.*) The only question is, really, can you rub out a "5" and substitute a "4" for it?—That is so.

59,874. If that cannot be done there is no objection to the work being typed?—None whatever.

59,875. But, as regards wills or deeds, a person might leave 400*l.* instead of 500*l.* to A B, and it may be possible that the "4" might be rubbed out and a "5" put in, and nobody be any the wiser. If you were satisfied that the ink was indelible it would be a great advantage to have typewriting?—Unquestionably.

59,876. (*Miss Haldane.*) Then you think it is a pity that your department should be, so to speak, self-contained, and the Assistant Extractor and Clerk of Records, for instance, should not be able to qualify for Clerks of Court?—Distinctly. I deprecate any inferiority that may exist, but the Clerk of Records is certainly eligible, although he has failed to procure an appointment, and although he has been a candidate.

59,877. You think it would be desirable that they should be eligible for such an appointment?—That is so. They are eligible at present. Although the Clerk of Records has not succeeded in being appointed, there is no reason why he should not be appointed.

59,878. No; but it has not been the custom?—It has not been the custom.

59,879. And you think it desirable that it should be the practice?—I do; and I am not without hope that it may be done. If a vacancy occurred I should certainly bring all the pressure I could to bear on the Lord Advocate in favour of my present official.

59,880. (*Mr. Graham Wallas.*) Are you familiar with the following statement made by Mr. Whyte before Lord Salvesen's Committee: "Since July 1906 my salary has been 500*l.* per annum. This was granted to me, as the Lord Advocate's Secretary wrote to me on the 3rd August 1906, in consequence of the long and excellent service which I had rendered in the Extractor's Office, and was consented to by His Majesty's Treasury, the increase of 100*l.* in my salary to be paid until I retired, or until I reached the age of 70, whichever of those events should first happen"?—I am quite familiar with that, because the arrangement was really made with my consent.

59,881. The first of those events to happen was that Mr. Whyte reached the age of 70, which was five years ago?—That is so.

59,882. And he is still enjoying that 500*l.* a year which was granted to him under the specified conditions?—No, it was stopped.

59,883. He says, since that date his salary has been 500*l.* per annum, and this was granted to him to be paid until he retired or reached the age of 70, whichever of those events should happen first?—He reached the age of 70 without retiring, so the 100*l.* ceased. He has not been receiving 500*l.* since he was 70.

59,884. It has been interpreted to mean that it is only the 100*l.* which was given to him until he reached the age of 70?—That is so.

59,885. And he then dropped back to his original salary?—He did. I may explain that the Lord Advocate at my interview when I accepted this appointment, pointed out to me Mr. Whyte's long service and the fact that the Treasury had then refused him superannuation, and he asked me if I would have any objection to accepting 100*l.* less salary for those four years and allowing Mr. Whyte to receive 500*l.* instead of 400*l.* The Lord Advocate had an interview, while I

was waiting, with Sir George Murray, of the Treasury, and he returned and told me that Sir George had suggested that the arrangement should be an entirely private one and that I should pay the money to Mr. Whyte; but the Lord Advocate pointed out Mr. Whyte being an old man and my coming in as a stranger, that might be a little awkward, so the Treasury agreed to pay the 500*l.* direct to Mr. Whyte. I may mention that when Mr. Whyte attained the age of 70 the Treasury at once reduced his salary to the original 400*l.*; but they did not pay the Principal Extractor the salary of 750*l.* to which he was entitled, and it required a certain amount of correspondence through the Scottish Office before I received the normal salary of the Principal Extractor.

59,886. Would not it appear to you obvious that that extra 100*l.* a year was given in full expectation that Mr. Whyte would retire either at 70 or before?—Undoubtedly I think so.

59,887. And the fact that that full expectation was not fulfilled, and that Mr. Whyte has enjoyed the salary of 400*l.* a year for an additional five years, rather diminishes the extent of Mr. Whyte's grievance, does it not?—Possibly. Of course, I have no doubt he would have been quite prepared to retire if he had thought there was any chance of his getting his pension; but I pointed out to Mr. Whyte that he could not have it both ways, and if he was made pensionable he would have had to retire five years ago.

59,888. And if it had not been expected that he would retire at 70, he would not have had that extra 100*l.* a year?—Possibly not.

59,889. I understand you have recommended Mr. Hume from time to time to be assistant or depute Clerk of Session?—I have.

59,890. There was a vacancy for a depute Clerk of Session last December?—Yes, I think so.

59,891. Do you remember whether you recommended Mr. Hume then?—I did.

59,892. Do you remember the age of the gentleman whose claims were considered superior to Mr. Hume's? Was it not 67?—I could not speak with regard to the year; but he was certainly a very much older man than Mr. Hume.

59,893. Is it not, in fact, notorious that the reason that prevents any such promotion from within the office is the custom that the Lord Advocate should satisfy his personal obligations to his clerk by appointing him to these higher posts?—I believe the Lord Advocate's clerk is frequently appointed—not always.

59,894. Were you appointed to your present post on the recommendation of the Lord Advocate?—I was.

59,895. We have been told that there is a traditional and avowed custom that such appointments are made on the ground of political claims?—I believe so.

59,896. May I ask whether you had any political claims at the time of your appointment?—Frankly, I applied for the appointment on the ground of my professional experience and my political record.

59,897. What was the political record?—Political work done during 20 years.

59,898. As agent, as president of an association, or as candidate?—I never was a candidate; I could not run to that. I had been an election agent at three or four different elections previous to my appointment. I had acted as secretary of a political committee for 10 or 15 years, and I had been engaged in active political work at every election, including the General Election of 1885 down to the General Election of 1906.

59,899. As far as one can judge from your case, is it the custom to give the promise of such an appointment, or is the appointment open and settled by comparing the political claims of the appointee when any vacancy occurs?—I have never heard of any promise being given.

59,900. (*Mr. Philip Snowden.*) A statement has been made as to the loss of a Bill some time ago in Parliament through the action of the Principal Extractor. I understood you to say it was near the end of the Session, and rather than lose the Bill altogether the Lord Advocate agreed to amend it in accordance

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with the demand of the Principal Extractor?—Yes; that is not a recent Bill, but it was in 1889—26 years ago.

59,901. So probably you do not remember the circumstances. Of course the Principal Extractor would not be able to bring direct pressure to bear upon Parliament; he would do it, I suppose, through Scottish members; of course the Scottish members alone would be able to bring influence to bear upon the fate of the Bill?—I am afraid it is impossible for me to speak with knowledge on the subject. As it was reported to me the story I received was, that Mr. Duncan told Lord Advocate Robertson that if those two offices were not deleted from the Bill he would use influence with certain members of the House of Lords to block the Bill. It was not in the House of Commons that this was done; it was actually after the Bill had gone through; but, of course, I am merely repeating the story. The fact remains, and nobody has any doubt that it was through his intervention that those omissions were made.

59,902. (*Mr. Graham Wallas.*) May I put it that such intervention is more likely and would be more powerful in the case of officers who hold their original appointments by political claims than if they were ordinary Civil servants?—I hardly think so. Mr. Duncan was over 80 at the time and had been out of public life for many years. He had held the office for 40 years, and I do not think he was a politician at all.

59,903. (*Mr. Philip Snowden.*) Do you think it desirable that all these officials should be pensioned in order to deal with such cases as that of Mr. Whyte?—I do think they should be pensioned.

59,904. If they had to retire on pension there would be less reason why they should continue in more or less active service to a very advanced age?—Distinctly.

59,905. Have you formed any opinion, generally speaking, as to what age would be desirable for retirement?—I think in my department 70 is a very good age.

59,906. Do you think a man retains his faculties up to that age, as a rule?—I do; a man who has led the life of a professional man, and has been engaged in work of that sort, I do not think loses the capacity of doing it until he is 70. It does not require any great physical endurance as long as his health remains.

59,907. May I ask if Mr. Whyte is fairly regular in his attendance at the office?—Entirely. I do not expect Mr. Whyte to appear quite so early in the morning as I do myself, and I do all I can to relieve him. I do not exercise a very strong discipline over Mr. Whyte; but he is regular; he has never been absent from the office. I think he had an illness about six weeks ago, and was confined to the house with a cold for about ten days, and he boasted to me that it was the first illness he had ever had.

59,908. It is not a case like some of which we have heard where the post is more nominal than active?—No; he gives regular attendance. Of course I make his post as light as I can now. I made up my mind about that when I went there. Mr. Whyte had had control of the department practically all his life. He is a most efficient public servant; he has a passion for accuracy, but he was not conspicuous for driving

through work, and I saw that, if I did not intervene personally, things would go on as they had been doing. So I said at once: "If there is any work waiting to be done in the office I am going to do it." With the result that I took over the drafting of the extracts, and he did not make any objections. I draft them all myself on a typewriter, and I think the work is done in two-thirds of the time it used to be done in, and there certainly have been no arrears since I was appointed. In the old days I remember it used to take weeks to get a simple short extract. One went along to the office and found piles of processes waiting for extracts.

59,909. (*Chairman.*) How long does it take to get a simple extract now?—Within a week, but it depends on the pressure of work in the office at the time. Some extracts are more urgent than others. If an agent wants an extract in a hurry, either as regards the appointment of a judicial factor or some appointment that requires to be in his hands to enable him to act, or if he is apprehensive of a debtor absconding and wishes to do diligence, and he tells me, I give it him in a couple of days.

59,910. (*Sir George Paul.*) You take it out of its turn?—Yes.

59,911. And there is what is called an "expedition fee" paid in those circumstances?—I do not know anything about that.

59,912. I have heard of it?—I have heard of it, and I have invariably said to any agent who has mentioned it to me: "I do not think it has ever been done in my time."

59,913. My experience goes back many years before your time?—I know. I very strongly deprecate it. I think it came into practice simply owing to the unsatisfactory condition of things in the office through the system of paying the clerks by the amount of their writing.

59,914. (*Chairman.*) There is one point I wish to ask you about as regards your own post. Do you think that normally the appointment should be made from outside, or by promotion from the staff in the office? In asking that question I refer to normal circumstances, and not to the particular position at the present moment?—The question whether my own post should be filled from outside or by promotion is one on which my opinion may not be regarded as altogether unbiased. There is always a natural sense of grievance on the part of the second in command with long experience of the details of the work when an outsider is appointed over his head whom he may possibly at first have to instruct in those details. On the other hand, the public official who has spent most of his life in one department is notoriously apt to get into a groove and to become hide-bound by custom and tradition. A man with some years' experience of professional practice will generally take a broader view when any question of difficulty arises. He knows the wants of the profession and their clients, and will not look at things so readily from the point of view of officialdom. Unless he regards his appointment as a comfortable sinecure he will be anxious, as far as he can, to introduce improvements and bring the department up to date. On the whole, I venture to think that the Principal Extractor should continue to be chosen from among the members of the profession.

Mr. WILLIAM BOYD ANDERSON (President of the Incorporated Society of Law Agents in Scotland), called and examined.

59,915. (*Chairman.*) You appear on behalf of the Incorporated Society of Law Agents in Scotland?—I do.

59,916. Will you tell us what your own professional experience has been?—I have been practising since 1876 in Glasgow, and to a small extent in other counties—in Renfrewshire.

59,917. You are at present president of the Incorporated Society of Law Agents?—I am.

59,918. May we take it that the evidence which you give us to-day is given on behalf of your society?—Yes, on behalf of the society.

59,919. Dealing first with the Sheriff Clerks, what does your society consider the proper qualification for

appointment to that office?—They are unanimously of opinion that the qualification for a Sheriff Clerk should be that of a law agent, that is to say, he ought to have passed the examination, after indenture, and be a qualified law agent with considerable experience of Sheriff Court business.

59,920. Will you explain why you consider that necessary?—He has a very large number of Acts of Parliament to administer and he is responsible for the form of all orders, and procedure in Court, both civil and criminal; and the final decrees, the warrants carrying out the orders of the Court are issued on his sole responsibility. The Sheriff in Scotland has a very much

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wider jurisdiction than the County Courts have in England. It is unlimited in amount, and with the exception of actions relating to heritages and status, and more serious crimes, such as murder and arson, and the reduction of deeds and all actions against the Crown, it can entertain any other class of action.

59,921. Do you think experience in the office of the Sheriff Court is not in itself sufficient qualification for the post of Sheriff Clerk?—Not entirely. A man ought to have a much wider experience of the practical working of the office as it affects the public outside—something more than merely handing out papers and seeing that orders of Court (interlocutors) are in proper form. He is often called on to interpret an Act and to act upon that interpretation.

59,922. Would not a senior member of the staff in one of the larger courts have considerable experience in the kind of work that the Sheriff Clerk himself is called upon to do?—After a long course of years he might have as much practical experience as was necessary, but occasionally questions even to him would arise that he would find it rather difficult to meet unless he had a proper legal training.

59,923. Do you attach importance to the wider experience that a man would have had in the outside profession?—I do. We all do.

59,924. How far do you apply the same considerations to the office of Sheriff Clerk Depute?—A Depute, of course, has not quite the same responsibility, and he is concerned more with the routine of the office, but in the absence of his principal he has, of course, to undertake the work that a principal would be called on to do; and he also has to interpret statutes and take charge of the whole procedure of the Court and ought to be a law agent.

59,925. But you do not consider that qualification indispensable in his case?—I think it would be too much to make a hard and fast rule that every man who is a Sheriff Clerk Depute must have the qualification of a law agent.

59,926. In the smaller places his duties would be of less responsibility?—In smaller places they are comparatively formal, and I am informed—I do not know it of my own knowledge—by one of the Sheriff Substitutes that in some places they have men like shopkeepers who are called Sheriff Clerks Depute, who merely receive papers and issue them, a most formal matter, but who still have the status of a Sheriff Clerk Depute. It would be nonsense to expect that he should hold the qualification of law agent.

59,927. Turning to the Procurators Fiscal, what is the view of your society about their qualifications?—We are strongly of opinion that the Procurator Fiscal must be either an advocate or a law agent and that his deputies ought to be law agents.

59,928. What is the position at present? Are the existing Procurators Fiscal in possession of that qualification as a rule?—As a rule they are.

59,929. Are there some who are not?—I knew of one case where the Procurator Fiscal is not a law agent.

59,930. In that case had the Procurator Fiscal had previous experience in a Procurator Fiscal's office?—Yes, he had been many years in the office of the Procurator Fiscal of Lanarkshire and was promoted to be Procurator Fiscal in another county in the east of Scotland. There could be no objection to his qualifications; his experience was as wide as it was possible for any one to have in a Procurator Fiscal's office.

59,931. Speaking generally, you think a Procurator Fiscal should hold the qualification of law agent or advocate?—Certainly.

59,932. Do you apply that also to the Procurator Fiscal's depute?—Yes, I do.

59,933. We were told that, in some cases, the depute is more or less an honorary office, and that his principal duty is to take the place of the Procurator Fiscal if he is accidentally absent through illness or on leave?—Yes.

59,934. Would the same qualification be necessary in those cases?—It ought to be, because the responsibility is as great whether he is a law agent or not. He has to conduct a case in court and it might be a very serious matter that was before the Court, and if he had not the qualification of a law agent you are then putting

a man who has not a proper qualification against a person who has; that is to say, the prisoner would not be allowed to appear except by a qualified agent of some kind or other—either a law agent or an advocate—and against him you are putting a man without a proper qualification.

59,935. You are, of course, acquainted with the present system of appointment of the Procurators Fiscal?—Yes.

59,936. What is the opinion of your council as regards that method of appointment?—They think that if, theoretically, it is not the best, it has worked well enough. There has never been any complaint of a notoriously inefficient Procurator Fiscal who has got in by influence, without the proper ability to conduct his business. Of course, there are men who are perhaps a bit lazy, and others who are not very well up to their work, but that would arise under any system.

59,937. We have been told by several witnesses that it is quite recognised and known that the system of appointment is largely political?—Yes, it is.

59,938. We have also been told that within the last few years some departures have been made from that system chiefly in the direction of promoting Procurators Fiscal or Sheriff Clerks from one district to another, irrespective of political considerations?—Yes.

59,939. Do you confirm the evidence we have had, that speaking generally and broadly, the system is a political system of appointment?—It is a political system. It is perhaps not recognised, but it is known to be so.

59,940. What is the view of your council on that point?—They think it should not be a political appointment, that is to say, there are a very strong majority who are of that opinion. One or two think it has done well enough and there is no reason to change it.

59,941. Taking the opinion of the majority, have they formed any view as to the manner in which the change of system should be carried out? In the case of the Procurators Fiscal appointments are made by the Lord Advocate?—Yes.

59,942. Has your council considered whether there should be a change in the person who makes the appointment, or whether there is any other way in which the political element in the appointment could be eliminated?—It has been suggested that there might be a committee either to make the appointments or confer with the Lord Advocate about them; but the great majority seem to think that it is not the slightest use, and that it would not alter the matter unless you had a committee to make those appointments, and altogether take it out of the hands of the Lord Advocate; and then most of us think that that is undesirable.

59,943. You would prefer a system under which a committee created for the purpose would actually make the appointments?—No, I do not think we would care for that. We say if you are to have a committee it must be an independent one, but people rather smile at a committee.

59,944. You are not in favour of a committee either to recommend or to make the appointment?—No, we do not think it would do much good.

59,945. But if a committee were to be created, you think it better that it should have the responsibility than be merely a recommending committee?—Yes; by it being merely a recommending committee you do not get rid of the political influence at all. You recommend a man, and all the Lord Advocate has to say is that he would rather have some other body.

59,946. If the Lord Advocate departed from the recommendation of the committee, he would have to be prepared to justify his action?—To a certain extent, but you are limiting his responsibility, and as he is the head of that department, I do not think he should be relieved of the responsibility.

59,947. When you say the head of that department, I suppose you are speaking specially of the Procurators Fiscal?—Yes.

59,948. He can hardly be described as head of the Sheriff Court Department?—No, it is the Lord President who would be ultimately responsible in that case.

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59,949. If your council are not in favour either of a committee of appointment or of recommendation, are they in favour of leaving the appointment where it is at present—with the Lord Advocate?—Yes, they are.

59,950. Assuming that that is done, have they any suggestions to make as to the manner in which the political element could be excluded from these appointments?—I do not think we have ever discussed that. Beyond advising that the Lord Advocate should not make a political appointment, I do not think we have anything to suggest.

59,951. Who is to say it to the Lord Advocate? This Commission can make a recommendation, but it has no authority over the Lord Advocate?—I think it might just as well be left unsaid. It would ultimately come back to be a political appointment.

59,952. I gather that you are not very hopeful as to the prospect of eliminating the political element?—No, I do not think as things are under the present system you could eliminate it very well. You could not eliminate it, but to minimise any difficulty that might arise from that, if you increase the qualifications, such as insisting on having a law agent or an advocate to be a Procurator Fiscal, and a law agent to be a Sheriff Clerk, then you have a choice from the more educated or better class of men as a rule.

59,953. Would it not be the case that, speaking generally, the persons who would have claims to appointment on political grounds would be law agents?—Yes, you may take it they would.

59,954. So the requirement of that qualification would not exclude claims on their part?—No.

59,955. A suggestion has been made by certain witnesses that the power of appointment should be transferred from the Lord Advocate to the President of the Court of Session. That suggestion referred rather more especially to the legal appointments in the offices at Edinburgh, but it might, of course, also apply to the local appointments. Has your council ever considered that suggestion?—They have not considered that.

59,956. Are you prepared to express any opinion upon it?—I think not, because what I say just now must necessarily be subject to revisal. I do not know that it would be at all a bad system to get the Lord President to appoint. Before he did it he would make inquiry, and you would have some one who is absolutely independent of any local influence, and before he appointed any one he would necessarily inquire into his qualifications.

59,957. The criticism has been made that the Lord President would not be responsible to Parliament, and that it is desirable that appointments of this kind should be in the hands of a person who is responsible to Parliament, and who can if necessary be called to account. Do you attach importance to that consideration?—I cannot conceive anything on the part of a Procurator Fiscal or a Sheriff Clerk that would call for the interference of Parliament. The worst that he could do would be either neglect of his duties or some malversation in his office.

59,958. The question is not so much the conduct of the Sheriff Clerk or Procurator Fiscal; the question is whether the appointing officer ought not to be one who could be called to account by Parliament in respect of his appointments?—I should think that the offices of Procurator Fiscal and Sheriff Clerk are comparatively humble offices compared with others, and I do not think it is at all likely that a mis-appointment would be so gross as to require the attention of Parliament.

59,959. You think it is therefore more a theoretical question than a practical one?—I think it is entirely theoretical.

59,960. Has the political element entered at all into the appointment of the deutes and the clerical staff?—I have not heard of that. I do not think so.

59,961. It is only with regard to the main offices?—The main offices.

59,962. The deutes and the other staff are appointed at present by the Sheriff Clerk and the Procurator Fiscal respectively?—They are.

59,963. Have they security of tenure?—No, they are liable to dismissal by the Procurator Fiscal or the Sheriff Clerk, like any other employee.

59,964. A new Sheriff Clerk or a new Procurator Fiscal is not under any obligation to employ his predecessor's staff?—No.

59,965. Do you think there should be any obligation in that respect?—There certainly should.

59,966. In what form do you suggest that that should be carried out?—Once appointed, whilst a Sheriff Clerk might have the power of dismissing his subordinates, or a Procurator Fiscal might have the power to dismiss his deutes, it should be only with the consent of either the Sheriff of the county or the Lord Advocate.

59,967. Would you apply that both in the case of persons appointed by the Sheriff Clerk himself and in the case of those appointed by his predecessor?—Yes.

59,968. That is to say, once a man is appointed the Sheriff Clerk should not have the power of dismissal, except with the approval of the Sheriff or the Lord Advocate?—Yes.

59,969. Have you known any cases where a newly-appointed Sheriff Clerk has not kept on his predecessor's staff?—They have not come under my personal observation, but I have been told of cases; and as it is quite within the Sheriff Clerk's power to do those things, I can quite understand it has been done once or twice, although I must say from my experience of the Sheriff Clerks—and I have known several—it does not happen very often. I do not think it has happened more than once or twice.

59,970. As a rule, a man entering upon such an office would be glad to have the assistance of skilled clerks on his office staff?—He would, to begin with.

59,971-2. At present there is nothing in the nature of a united service or any systematic arrangement for transfer and promotion between the different offices?—No.

59,973. Do you consider that any change is possible or desirable in that respect?—It certainly would be desirable that a Sheriff Clerk Depute or a Procurator Fiscal Depute should have the opportunity of going to another county. Of course, as he would only do it on some increase of salary it would be some advancement for him, and the public would have the advantage of the experience that he brought with him.

59,974. Would you apply that also as between Procurators Fiscal. Do you think it desirable that the Procurator Fiscal of an unimportant district should have the opportunity of promotion by transfer to a more important district as vacancies occur?—Yes, I think so. I am assuming that their qualifications are looked at.

59,975. Assuming a man is qualified, you think the appointing authority should, if possible, fill the better appointments by transfer from the less highly-paid appointments rather than by appointment from outside?—I think that would be an advantage.

59,976. Would you apply that also in the case of the Sheriff Clerks and their deutes?—I would.

59,977. How far would you apply it as regards the staff generally in the offices of the Sheriff Clerks and the Procurators Fiscal?—At present it could be done; that is to say, a lad in one Sheriff Clerk's office hears of a situation likely to be vacant in another county, and if he applies and is qualified he can be transferred now in that way. It would always need to be done in that way unless you made the service a consolidated service and part of the Civil Service.

59,978. Would that be practicable?—I do not know that it would. The duties of the Sheriff Clerks are so various all over Scotland.

59,979. At present there is some difficulty in bringing about promotion by transfer because each Sheriff Clerk has knowledge only of the staff of his own office, and would not have knowledge of a person in another office who wished to obtain promotion?—Yes.

59,980. Those employed in other offices might not have knowledge of vacancies?—That is so.

59,981. A suggestion has been made that a small committee of Sheriff Clerks might be brought into existence for the purpose of considering promotions by

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[Continued.]

transfer from one office to another. Has that suggestion come before your society?—That suggestion has not come before us.

59,982. Does it strike you as a good suggestion?—I think it would be a very good thing if the Sheriff Clerks could meet periodically and discuss that, and perhaps other matters in which they were mutually interested, and find out if there was a vacancy occurring and if any good man could be had from another office.

59,983. Do you know whether there is any difficulty at present in finding suitable men to enter the Sheriff Clerks offices?—I do not know. I know in Glasgow we have several men now as Sheriff Clerks Depute who went in simply as clerks.

59,984. You have no knowledge of whether for the junior posts there is any difficulty in recruiting satisfactory men?—I do not know.

59,985. In any case a system of promotion by transfer such as we have been discussing would add to the attraction of the Service?—Certainly it would.

59,986. A suggestion has been made that the number of Sheriff Clerks should be reduced and that there should be one Sheriff Clerk for each sheriffdom, which reduces the number to 15. Are you in favour of that suggestion?—Yes, we have considered that, and think it is a reasonable proposal.

59,987. If that proposal were carried out it would to some extent facilitate the question of promotion by transfer among the staff, because the number of separate offices would be reduced?—Yes.

59,988. A small committee of the principal Sheriff Clerks out of those 15, would, in the offices under their own view, include a very considerable proportion of the general staff of the Sheriff Clerks' offices?—They would.

59,989. Lanarkshire, for instance, would include a much larger number than in any other sheriffdom?—Yes.

59,990. So that the proposed reduction in the number of Sheriff Clerks would probably tend to facilitate arrangements for promotion by transfer among the staff?—I think it would.

59,991. Have you considered the question of the restriction of private practice on the part of Sheriff Clerks and Procurators Fiscal?—Yes, we have considered that several times, and the opinion is that it would be advisable that both Procurators Fiscal and Sheriff Clerks should be debarred from private practice.

59,992. In speaking of private practice, do you include in that the holding of other public appointments of a local character?—No, I do not think there is any objection to a public appointment such as, say, clerk to a School Board, or perhaps registrar of births, or something of that kind.

59,993. You see no objection to offices of that character being held either by a Sheriff Clerk or a Procurator Fiscal?—Not where an office in its nature does not conflict with the duties of a Procurator Fiscal or a Sheriff Clerk.

59,994. What you would exclude is private practice as a law agent?—Yes.

59,995. We have been told that as the Procurator Fiscals' districts are at present arranged, there is in many cases not nearly enough work to occupy a man's whole time?—That is quite so.

59,996. It has been suggested to us that where that is the case it is undesirable to debar a man from private practice, because the man who has not a full day's work is apt to rust. Do you attach importance to that?—You cannot carry on your present arrangement and debar a man from private practice, because in many cases for weeks, and possibly for months, a Procurator Fiscal, say, in some of the outer districts in Scotland in the Highlands, has really nothing to do.

59,997. Then how would you modify the system to meet that?—I would combine districts so as to give a man a wide enough district to take up his whole time.

59,998. The objection which has been stated to an arrangement of that kind is, that in the less thickly populated districts of Scotland that would mean creating districts of very large geographical extent?—Yes.

59,999. And that as cases of crime may arise at any moment at any point in that district, the geographical conditions would render it impossible for the Procurator Fiscal to perform his duties efficiently?—Undoubtedly, that is a very considerable difficulty which would have to be considered and got over. Of course, serious crime in those districts is rare.

60,000. But can the difficulty be got over? In the thinly populated districts can you make a district sufficient to occupy a man's whole time?—For example, take districts like Western Ross-shire, the Hebrides, or Mull; there is very little serious crime in those districts—never any premeditated serious crime, such as murder, burglary, or things of that kind. But you might have a depute who, when the Procurator Fiscal himself is away making inquiries, could take up his duties during the time he is away and deal with anything that arose in that period; or the Procurator Fiscal could remain at his head-quarters and send a depute.

60,001. Would not that be only transferring the difficulty a step further and creating part-time deputies instead of part-time Procurators Fiscal?—You might then give a Procurator Fiscal power to create a deputy *ad hoc*, and then if he has to go away, as I have known to be the case, to an island, and may by storms have to stay there three days doing nothing and not able to get back, his depute could do what is necessary in his absence.

60,002. The deputies created *ad hoc* would not have experience in criminal investigations?—No; but if it was merely during a temporary absence—I do not mean an absence for a couple of days or anything of that kind—but if a man had to go away, say, for a fortnight, and something arose, in that time a depute could not go so very far wrong; he could carry on what was absolutely necessary, and perhaps make a few preliminary inquiries if a case arose.

60,003. Then you think it would be practicable to arrange the districts so as to give full employment to a Procurator Fiscal in each district?—I think it would be practicable by doing that, and having some system of appointing a depute if a man were to be away too far from his head office; but that is a matter on which the opinion of a Procurator Fiscal would be very much more valuable than mine.

60,004. If it were not practicable, and if you still had to maintain a number of part-time districts, would you in those cases debar the Procurator Fiscal altogether from private practice?—I do not think you could, unless you gave the Depute Procurator Fiscal a pretty wide area too.

60,005. If you debarred him from private practice it would mean that you would have to pay him a larger salary than would otherwise be necessary, and during part of his time he would be in enforced idleness?—That would be so.

60,006. In those cases I gather you would not think it necessary to enforce the prohibition against private business?—No; it might be in those cases very difficult to enforce it.

60,007. What are the objections that you see to the exercise of private practice by a Procurator Fiscal?—You do not know how his private practice might be affected or influenced by a prosecution. He might be drawn two ways.

60,008. You mean if a client of his had committed a crime there might be some conflict of duty or interest?—That, of course, is the most obvious thing; but there are others. For example, in dealing with a defaulting law agent, he might be thought to be unduly using his office as Procurator Fiscal against a competing law agent to try and make a little private advantage out of it.

60,009. Is there any feeling that his position as Procurator Fiscal would give him an unfair advantage in competition with his professional brethren?—Some people think so, and I think it is quite likely. He has an official position and is meeting people, and has opportunities of influencing business his own way that an ordinary man would not have.

60,010. Do the same considerations apply in the case of the Sheriff Clerks?—They do; and also in some of the districts the agents object to Sheriff Clerks

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who are in private practice getting information in their capacity of Sheriff Clerks; for example, getting detailed inventories of estates that are lodged with them, and getting to know the sums placed on deposit receipts in disputes, and so forth, and by that means getting a certain knowledge which, in the struggle for business, is used, perhaps, unprofessionally.

60,011. It would be easier in the case of the Sheriff Clerks than in the case of the Procurators Fiscal to enlarge the districts so as to ensure their being whole-time posts?—Yes.

60,012. At present none of the officers whom we have mentioned are pensionable?—None.

60,013. Do you consider it desirable that they should be?—I think the deposes should certainly be. The Sheriff Clerks and the Procurators Fiscal have larger salaries; they have had businesses of their own, and have chosen to leave them for the appointments that they take, which they know have no pension attaching, and they know what is in front of them. But a Sheriff Clerk Depute or a Procurator Fiscal Depute has probably never been in business at all, and he has been brought up to a limited salary. You ask him to undertake very onerous duties and considerable responsibility, and I think it is only fair that a man who has been in the Public Service so long, and always on a salary, should get something when he is no longer able to earn his own livelihood.

60,014. Do you apply that both to the Sheriff Clerks Depute and to the Procurators Fiscal Depute?—I do.

60,015. You think it extremely desirable that they should be made pensionable, and you think it desirable, but not quite in the same degree, that the Sheriff Clerks and the Procurators Fiscal themselves should be made pensionable?—Yes.

60,016. What about the staffs of the Sheriff Courts?—It is a very difficult matter. An incompetent fellow getting into a Sheriff Clerk's office remains a clerk all his days, and is worth, perhaps, about 80*l.* a year. He would probably make no more if he were in the outside world, and he is probably paid his full value; but still it would be an advantage to a man like that, too. There is one thing about the life in any office, whether a Sheriff Clerk's or another, where a person never rises above the status of clerk, he has probably never acquired any knowledge that would enable him to gain a livelihood when he has ceased to work. He could not work at anything else, say, at gardening, or any hobby. He is limited in that way compared to a working man who has worked with his hands all his life, and when he gets old can turn his knowledge to some use and make a little; but a clerk cannot; he is, therefore, worse off, and if he could get a pension it certainly would be a great advantage to him, and enable clerks also to remain longer in the offices, and they would not look out so much for other situations.

60,017. At present do they frequently leave the Service for other situations?—I think the junior clerks do—at least from the Sheriff Clerk's office in Glasgow. I think they take situations in lawyers' offices. We have had several, and we have found them useful men. Their knowledge of the procedure in the Sheriff Clerk's office saves many a journey down there to ask what would be done, when your own clerks can tell you on a mere matter of routine.

60,018. If they were pensionable it would be easier to retain their services in the Sheriff Court?—Of course, because they would not get a pension by changing.

60,019. Turning back to the question of private practice, do your observations on that head apply to deposes as well as to the Sheriff Clerks and the Procurators Fiscal themselves?—It ought to apply to deposes whose whole time is taken up with the duties of their office, such as a depute in a Sheriff Principal's office, as you have in the larger offices; but where you have a depute in not a large town, whose time is only occupied occasionally when the Court meets, you could not well ask him to give up private practice. There might be such a system as would give deposes wider areas and take up their whole time, and, when they must have local offices in some of the smaller towns where the Courts meet on circuit, they might be established

solely for the receiving and giving out of papers under the charge of a junior clerk, or only open on certain days—perhaps it might be in the office, say, of the Registrar of Births, or somebody like that. It certainly is more difficult to say that a detached depute should not do private practice.

60,020. If private practice were allowed in those cases it would make a difficulty about working the system of promotion by transfer?—Yes. A depute who has private practice naturally, if he got promotion, could not take all his private business with him; he must leave that in the locality. But that is no objection to promotion, because if it did not suit him he simply would not take it.

60,021. If he had the offer of promotion in that way it is his own affair if he does not find it convenient to accept it?—Yes.

60,022. Speaking generally, do you find that the office work of the Sheriff Courts is satisfactorily done?—Yes, it is very well done. I am speaking chiefly, of course, of Glasgow, but I have not heard complaints about other places either. You sometimes do get autocratic Sheriff Clerks, and we had occasion in the Council of the Incorporated Society of Law Agents, some time ago, to object to the practice of one of them, which was changed.

60,023. Generally speaking, the convenience of the public and of the practitioners is considered?—Yes, I think it is safe to say that it is quite a good service, subject only to the defects that you find in any human service.

60,024. (*Mr. Graham Wallas.*) I understand you to say that the general professional opinion in Scotland would be, that in so far as you could abolish political appointments to administrative posts, such abolition should take place?—Yes, there is that opinion.

60,025. (*Miss Haldane.*) Do you find, as I think we were told by some witnesses, a good deal of canvassing, and so on, for appointments under the Lord Advocate?—No; so long as they are political naturally the number of aspirants is limited, and if there is canvassing it is between, perhaps, four or five men.

60,026. Are you talking of the posts of Procurators Fiscal, Sheriff Clerks, and so on?—Yes.

60,027. As regards the Lord President, you rather approve, I gather, of the Lord President being the appointing authority. Would it be possible for him to be represented in Parliament somehow in case questions were asked about appointments?—Of course the Lord Advocate would necessarily answer from his place in Parliament any question that affected an appointment by the Lord President.

60,028. I have been told—I do not know whether it is the case—that a good deal of the canvassing is done in Parliament through other members of Parliament?—I do not know whether that is the case or not.

60,029. The Lord President, perhaps, would be immune from that kind of pressure?—Yes, he would.

60,030. About public appointments being held by Sheriff Clerks and Procurators Fiscal, would you consider it rather a good plan that they should hold public appointments as distinguished from private practice?—Yes, I think it would be an advantage.

60,031. It would give them a certain status in the place to which they belonged as well as an additional income?—It not only gives them a status but it makes them independent of the public. They have simply to discharge their public duties; they are not drawn one way or the other by any private interest that they might have as to how a particular line of action would affect their business.

60,032. Is it your idea that it would give them an additional status in the places in which they lived as well as an additional income?—I do not know that their status would be affected very much. I think they would be just as well considered whether they had private practice or not.

60,033. Anyhow, it would add to their incomes and make it easier to make them whole-time appointments?—Yes, and add to their independence.

60,034. It seems to me that the Sheriff Clerk's staff has a very poor outlook, in the smaller places especially?—It has.

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60,035. I do not know whether you have made any suggestions in your précis, but is there no means by which that staff could have some opportunity given them for promotion?—I do not see very well how it could be done unless you gave a member of the staff a certain right to promotion. Take a lad in not a very large town where there are perhaps three assistants in the Sheriff Clerk's office; there is no prospect in front of him at all.

60,036. No; but if there was an opportunity of their being promoted elsewhere it would be better, would it not?—It would be better, but my experience at present is that when they see what is in front of them, which they do before they have been very long in the office, if they have any foresight at all, they leave it.

60,037. But that is not a very satisfactory service if they are trying to leave it at the very first opportunity?—No, it is not a very satisfactory service.

60,038. Cannot you conceive of any way being devised of getting the staff by a different method and with a view of their having promotion. Instead of allowing the Sheriff Clerks to appoint their own staff would it not be possible to have a better system?—I do not think you could do otherwise than have a Sheriff Clerk appoint his own staff.

60,039. I do not quite understand why not?—The duties of the offices, comparing one county with another, are somewhat different in their character. Take the Sheriff Clerk of Greenock—he is dealing with a certain series of Acts affecting people there—shipping cases, mercantile cases, and workmen's compensation cases. That is entirely different from the case of a man who is away in a country district altogether, say, Dumfries; and that, again, is probably different from a district away up in the north of Scotland. It is difficult to get a series of promotions from one place to another in that way, and the Sheriff Clerk wants somebody who can do the particular technical work, and, of course, it is very technical work that is required. You must give him some say as to his employés.

60,040. I should have thought if one got an intelligent lad he could adapt himself to the different conditions, supposing the service were somewhat consolidated?—Yes, so he could.

60,041. And you would, at any rate, get a better class of young men in that way, and a more intelligent class of young men if they had some prospect of moving elsewhere. In the smaller courts it strikes one that it must be a very depressing service?—It is a depressing service for anyone who is compelled to remain in it in a small place. He may get promotion in a very short time, and, on the other hand, it may be delayed for years.

60,042. I should have thought he would be much better really if he had a prospect of improving his condition, supposing he qualified himself and showed his intelligence by his work?—If you consolidated the service it would be an advantage in that way; but I am afraid it is too limited a service.

60,043. Would you agree that it is a very depressing occupation just now?—I think it is, certainly.

60,044. (*Chairman.*) Can you say how the salaries paid to the clerks in the Sheriff Courts compare with the salaries paid to clerks in private employment in law agents' offices?—I think they are much about the same.

60,045. (*Miss Haldane.*) In some cases they are very small?—Yes; the lads begin with a few shillings per week and are quite unable to keep themselves.

60,046. There is no control over them; they may be paid at any rate the Sheriff Clerk thinks proper?—Yes; the Sheriff Clerk has an allowance for his staff.

60,047. (*Sir George Paul.*) As regards the point which Miss Haldane made as to promotion, the Chairman suggested that there might be a committee of Sheriff Clerks who would get to know all the deutes in the country, and would probably know well the capable

men who would be suitable for promotion, and you rather approved of that?—Yes; I think it might be a great advance for deutes.

60,048. That would be a way in which it might be discovered who were fit for promotion?—Yes.

60,049. Would you make it a hard and fast rule that a Sheriff Clerk should be a qualified law agent?—I think a Sheriff Clerk should be.

60,050. We had before us the other day the Sheriff Clerk of Midlothian, who began life as a junior in the Sheriff Clerk's office, and who was promoted gradually to be Sheriff Clerk. He is a very competent man; and we were told also that a Mr. Sellar, who, too, was not a qualified law agent, was a very good man?—Yes, I know him; he did his duties uncommonly well.

60,051. Then Sheriff Fleming was in favour rather of your view, and he said: "All the same, I must say the best Sheriff Clerk I ever had was promoted from a Sheriff Clerk Depute"; so it is a matter of circumstances?—Of course, it depends to a certain extent on the man.

60,052. I know; so if you had a good man you would not disqualify him because he was not a qualified law agent if you were satisfied that, but for that technical difficulty, he was perfectly qualified for the post?—Quite so.

60,053. What is your suggestion as regards the simplest way of appointing a Sheriff Clerk Depute? His is a precarious position at present?—The tenure of office is precarious.

60,054. His tenure of office is precarious because he is appointed by the Sheriff Clerk and may be dismissed by the Sheriff Clerk?—Yes.

60,055. What other suggestion have you to make?—I believe in the appointment as it is by the Sheriff Clerk, because he must be held responsible for his depute; but once appointed I would certainly not give the Sheriff Clerk the absolute power of dismissal.

60,056. I think it was suggested by one witness that the Sheriff Clerks Depute might be appointed by the Sheriff after consultation with the Sheriff Clerk?—That would be an advantage, but the Sheriff could never very well dissent from what the Sheriff Clerk suggested, because the Sheriff Clerk has made inquiries and he is the person responsible for the man, and he will be working with him.

60,057. But still the Sheriff would have to give his approval?—It might be an advantage that the Sheriff should be asked to give his approval.

60,058. That was the suggestion made to us?—I do not think there would be any objection to that.

60,059. As regards the Sheriff Clerk who is not a whole-time officer, you said there might be difficulty as regards his having private information, which would give him an advantage over other law agents, and he might be competing with them, for instance, in regard to inventories of personal estate?—Yes.

60,060. But anybody—Tom, Dick, or Harry—might go and find out as much as a Sheriff Clerk about it, by paying a shilling?—Yes, they could, but the Sheriff Clerk, when parties come to him, has opportunities of asking the representative from the office who presents the inventory various questions, and has a chance of gaining information in that way, all apparently in the way of this particular business, which a member of the public has not got.

60,061. But you would not attach any importance to that?—I do not myself, but I know in some of the country districts they do.

60,062. That is as regards local gossip, I suppose, about other people's affairs, and what other people have left?—It is not only the gossip; it might be jealousy, but they do think in some places that the Sheriff Clerk has got an undue chance of picking up business which an outsider has not.

Sir THOMAS MUNRO and Mr. JAMES E. SHAW, representing the Association of County Councils in Scotland, called and examined.

60,063. (*Chairman.*) (*To Sir Thomas Munro.*) You are the County Clerk of Lanarkshire?—I am.

60,064. (*To Mr. Shaw.*) You are the County Clerk of Ayrshire?—I am.

60,065. You wish to lay before the Commission certain points relating to Procurators Fiscal and the arrangements for their remuneration?—(*Sir Thomas Munro.*) We do, and we are obliged to the Commission

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for hearing us at this late stage. I have not been able to submit a précis, because the gentleman who has been taking the main interest in this question is unable, unfortunately, to be present to-day, but Mr. Shaw and I have come to make a very short statement, and perhaps you will be good enough to do without a précis.

60,066. Perhaps I should explain first that the reference to this Commission does not authorise us to deal with points of judicial procedure or arrangements of that kind, but matters affecting the work and remuneration or appointment of Procurators Fiscal or the organisation of the system do come generally within our reference?—Mr. Shaw and I have considered the reference, and we will endeavour to keep within the scope of it.

60,067. Will you explain to us what you wish to bring forward?—Procurators Fiscal in the Sheriff Courts of Scotland are appointed by the Sheriff of the county subject to the approval of the Secretary for Scotland. They are now mostly whole-time officers, especially in the larger counties, though I believe in some of the smaller counties they may, as practising agents, be allowed to do a certain amount of outside business. The original liability for the remuneration of the Sheriffs Fiscal lay upon counties in Scotland under an Act of Parliament called the Rogue Money Act, passed in 1724. I do not trouble the Commission with a detailed statement of the various steps by which the counties were relieved of the obligation, if it was an obligation, imposed by that Act, but I come to this point: By the year 1851 the Treasury had practically taken over the responsibility for the payment of the Sheriffs Fiscal in, to use the general words of the old Statute, "Apprehending and bringing to trial prisoners." There are Sheriffs Fiscal appointed in the manner I have named, and Fiscals appointed by justices of the peace who exercise *quasi* criminal jurisdiction, but these latter are not Crown officers, and we do not bring that aspect of the question before the Commission, although incidentally I may mention, as being pertinent to the matter, that the expense of administering the criminal jurisdiction exercised through the J. P. Courts is a considerable burden upon counties in Scotland. In my own particular county I think the expenses will probably amount to nearly 2,000*l.* a year. That is a liability from which we cannot ask this Commission to suggest that we should be relieved. But to revert to the position of the Sheriffs Fiscal, there was in 1851 a good deal of complication as to what the effect of the Treasury Minute of that date was. In my county (Lanarkshire) it was held that the effect of that minute was to relieve the counties of any claim on the part of the Sheriffs Fiscal, because they were paid by the Treasury for practically everything that was done, except for this class of work, namely, the consideration of informations, which they had to peruse in the ordinary course of their duties, but on which no proceedings followed. Some of the Fiscals, however, contended that all that the Treasury minute relieved the counties of was the class of case which was either reported to Crown counsel as being of sufficient importance to justify the consideration of Crown counsel, or cases that had actually gone to trial in the local Sheriff Courts; but that it did not relieve them of the claim which Fiscals had for considering informations submitted to them, which resulted in none of those steps following. In my county we steadfastly refused from 1851 onwards to make any payments for work of that nature. The great majority of the other counties in Scotland, however, did make certain payments, very often very small payments, but a certain recognition to the Fiscals for the ordinary labour of perusing the informations, upon which no proceedings followed. In the year 1868 the position of matters was altered by the abolition of all existing statutes, imposing or authorising charges on county funds, and by an enactment, which said that the Commissioners of Supply (who are now represented by the County Councils in Scotland) were to be liable for any expenses which at the date of the passing of that Act they were in use to pay in connection with criminal proceedings or investiga-

tions. Since then the majority of the counties have made payments either of the exact amount which they were in use to make in 1863, or probably increased amounts which they may have considered that the Fiscals were fairly entitled to, with the result that there is being paid by counties in Scotland to-day a comparatively small amount in the aggregate, anything between 1,500*l.* and 1,800*l.*, to the Sheriffs Fiscal. The only exception, I think, is the county of Lanark, who resisted a claim made a few years ago by the Fiscals, that they were entitled to these payments. That case went to the House of Lords, and a unanimous decision of the House of Lords was given to the effect that the County of Lanark, not having been in use to make the payments claimed for in 1868, were not liable to the Fiscals. Accordingly, in Lanarkshire we make no payment to the Fiscal as do the other counties in Scotland. If the Treasury were right in the contention—because they supported the Fiscals in their claim against the county—that part of the duties which the Fiscals were not remunerated for by the salaries paid by the Treasury should be paid for by the county—and yet the Court has decided that the county is not liable—it seems a little unfair to the Fiscals that they have not got some consideration from the Treasury in respect of the loss of emoluments which the Treasury thought they would obtain from the counties when they fixed their salaries. So far as the county of Lanark is concerned, then we are free of all liability for the future. The other counties, however, are continuing to make these payments, and that fact has given rise to a little grievance on the part of the counties. The work for which the claim is made is the perusal and consideration of police informations on which no proceedings follow, and in the great majority of cases all that is done is that the Fiscals read the information, see that it is not a case to take up at all—it may be a simple case of an accident or a fire or anything of that sort—and marks on it "No proceedings." For that he makes a charge. In my own county the charge they made was 7*s.* 6*d.* for each perusal. I have here the actual account rendered—I do not trouble the Commission with it—but really it was rather a ridiculous account to be rendered, because in 800 items they were practically all of an apple-pie order, "receiving and perusing police information, and marking 'no proceedings,' 7*s.* 6*d.*" One makes no criticism on the nature of the claim except to say that it does seem an anomalous position that a man has a fixed salary which covers every case on which he actually requires to take action; but if, however, he does not take action on any case, he is remunerated in addition to his salary. I do not say for a moment, looking at the class of Fiscal that we have in Scotland, that that temptation is one that is present to the minds of the Fiscals; but it is quite obvious that if a man is going to increase his salary by not taking action, it puts him into rather an awkward position.

60,068. Does he in no circumstances get separate remuneration from a county for actual prosecutions?—No, except for statutory offences where there is an actual liability on the county imposed by statute.

60,069. In some cases of statutory offences, does he receive remuneration from the county for prosecutions?—Yes. Under Acts of Parliament such as the Weights and Measures Act or the Foods and Drugs Act, where the prosecution may be at the instance of the public prosecutor, and where although it is the Sheriff who tries the case, the authority instituting the proceedings is not the Crown but the local authority. In such cases, if the local authority employ the Fiscal, of course they pay him. But we think even in that class of case it would be very much better that all public prosecutions, common law and statutory, should be at the instance of the Sheriffs Fiscal and that he should be remunerated entirely by the Treasury.

60,070. In that case any penalties recovered would go to the Treasury?—Obviously all penalties must go to the Treasury. As a matter of fact I may say that the Treasury get practically all the penalties now. The only concession they make is that occasionally, if the penalty imposed is sufficient to meet the expenses, they allow the expenses out of the penalty. I have put the case for the counties as broadly as I can. It is an

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anomalous position, we think, for the reasons I have already explained; and it is rather an irritating position, because while most of the counties have been able to arrange salaries with the Fiscals, it is always open to the Fiscal to say, "I want an increase in my salary," and he there and then makes up an account showing a large number of these items, "perusing, considering, and marking 'no proceedings'."

60,071. You say the majority of the counties have fixed a composition for these things?—The great majority pay by a commuted fee.

60,072. Do those commuted payments remain fairly constant, or are applications for modification often made?—They have remained fairly constant in recent years, but I remember about twenty years ago there were rather numerous applications on the part of Fiscals for reconsideration. Mr. Shaw will be able to show the position in his own particular county, but it is rather an irritating position, I think, both for the Fiscal and for the County Council. The sum involved is comparatively small; something like 1,500*l.* a year would get over all this irritation. In addition to that we think that if the Fiscal was wholly paid by salary his salary should cover any necessary clerical assistance which he may require. Our interest, as a county, in that part of the question is a very small one, but again it is rather an irritating position. The Fiscal by long custom has had the admitted right of asking for the assistance of a qualified police officer (very often an officer of some standing, such as an inspector) whom he uses as his clerk. The salary of the police officer is paid by the local authority, but he really is the servant of the Fiscal. Now we think that the Fiscal should be sufficiently remunerated by the Treasury to enable him to provide whatever assistance may be required. Of course, that might mean that in fixing the emoluments and fees of the Fiscal one would have to take into consideration what a reasonable salary for an active man doing the greater portion of the work would be. We do not for a moment suggest that we would dictate to the Treasury that in every case Fiscals must have a qualified clerk. It is a question as to the amount of salary which reasonably remunerates a man and enables him to get such assistance as is necessary for carrying out his work. Practically that is all I have to say, except to again point out the anomaly of my own county, the largest county in Scotland, where, if we had admitted the claim of the Fiscals, it would have amounted to at least 1,000*l.* a year, and we have actually escaped it because our predecessors were shrewd enough to take a Scotch view of the Treasury Minute of 1851; whereas other counties who may have been more liberally inclined towards the Fiscal, for personal reasons, have thus been subjected to a payment which we are escaping. In addition the position is anomalous in that a man has the temptation to increase his emoluments by being slack in his work. I apologise for such a rough statement, but I hope I have put the point before the Commission.

60,073. You do not suggest any other change in the relations between the Procurators Fiscal and the counties, except as regards these payments of which you speak?—No, except that I think these officers should, as part of their duties as officers of the Crown, undertake the prosecution of all statutory offences in counties.

60,074. They would still continue to peruse the informations and decide whether proceedings should be taken or not, as at present?—They would have to, because that is the only way by which they are enabled properly to fulfil their duties. The system in Scotland is this: in the old days the Procurator Fiscal practically searched out the criminal himself, because there was no police force in Scotland until 1857. The Procurator Fiscal was, therefore, not only a prosecutor of, but a searcher for, the criminal; in other words, he got his information from the public and made his own investigations either personally or through what were known as Fiscal's officers. In 1857 a police force was made compulsory. Practically now every case of a criminal prosecution in Scotland emanates from the police. The police send in what is a full precognition, as we call it in Scotland; that is to say, a full state-

ment of the nature of the crime, the locus, and all the information to enable the Procurator Fiscal to see at a glance on perusal whether it is a case needing further investigation. Very often no further investigation is required, because the police information is so full that the Fiscal can actually take it into the court and lead his witness's evidence from it; but if further investigation is necessary the Procurator Fiscal causes further inquiry to be made, again through the police in the majority of cases, but sometimes by personal investigation. So that to enable the Fiscal to do his work he must read the police informations. It may be an information on an accident or a fire which need not lead to proceedings or be reported to Crown counsel, but he must read it to see if there is anything criminal in it. We do not think the mere fact that he reads that in the ordinary course of his work and does not take any action should justify any claim for remuneration from the county.

60,075. (To Mr. Shaw.) Is there anything that you wish to add?—If I may I would like to add one remark in regard to the use of the police officers in the offices of Procurators Fiscal. He uses these officers very much as clerks, and so reduces the staff in his office. Sir Thomas Munro has brought out the question of the remuneration of the police officer by the county; but there is a further inconvenience which I think you will appreciate: That police officer is under the control and command of the Chief Constable, and when he is transferred to the Procurator Fiscal's office he remains nominally under the command or control of the Chief Constable, but he really comes under the control of the Procurator Fiscal, so that the Chief Constable is in the position of not being able to use that man to the full extent that he could for proper police purposes. The arrangement, of course, was made in the old days before the days of telephones, when a policeman was required in a Procurator Fiscal's office to execute warrants of arrestment as required; but now there is no practical necessity for that, because by telephoning over to the police station he can get either an Inspector, a Superintendent, or a constable, for the particular purpose that he requires him. I thought, perhaps, that was an additional point to what Sir Thomas Munro had said on the subject. With regard to the other main question, the remuneration by the County Council of the Procurator Fiscal for perusing informations that do not go to trial, if the Commission thought right to report that that remuneration should be taken over by the Treasury, I think it right to suggest that compensation should be paid, either by the County Council, or by the county and the Treasury jointly, according to the extent to which either benefited; but I would then ask to be taken into consideration that the compensation should not be paid according to the amount that is being paid to these officials at present, for the reason that these amounts have really been arranged by compromise, as a rule, to avoid litigation between the County Council and the county official—the Procurator Fiscal. In the case of Lanarkshire the matter was of great deal more importance, and they took a case to the House of Lords in which they were successful; but that did not rule in all the other counties, and, rather than have an expensive litigation over a question of 100*l.* or so—sometimes only a matter of 25*l.*—certain County Councils thought it better to compromise the matter by arranging a payment of so much a year to the Procurators Fiscal. Now I suggest and maintain that if compensation is to be paid to the Procurators Fiscal, it should be paid upon what they are legally entitled to, and not on what they have been paid as a compromise in order to avoid litigation with those officials. Those are the only two points I wish to make in addition.

60,076. In the case of your county, has the payment been converted into a fixed sum?—In the case of my county it was converted into a fixed sum. Prior to 1868 the county of Ayr did not pay the Procurators Fiscal anything at all, so really, when that Act was passed, they were not legally liable to pay anything. But many years after that, by arrangements with the Procurators Fiscal, they paid a sum of 25*l.* in one court and 20*l.* in the other. Subsequently, in 1904, I think, after the case of *Hart v. The County Council*

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of Lanarkshire, a new Procurator Fiscal having built up an account for perusing these cases that did not go to trial, the County Council recognising that, if that work should be remunerated at all, it was not being sufficiently remunerated at 25*l.* and 20*l.* respectively, compromised the matter accordingly by making a payment of 100*l.* in one case and 80*l.* in the other. But as a matter of fact I am free to maintain that they were not really entitled to any remuneration at all, because, prior to the Act of 1868, no remuneration had been paid, and that Act only authorised the County Council to pay what they had been in use to pay formerly.

60,077. In fact, Ayrshire was really in the same position as Lanarkshire?—Exactly in the same position; but it was not worth while going to expensive litigation with an official in order to save a matter of 100*l.*

60,078. (*Mr. Graham Wallas.*) (*To Sir Thomas Munro.*) If any compensation was paid in this case it would apply only to the holder of the office for the moment—the present Procurator Fiscal?—Quite so.

60,079. In the case of a vacancy the matter could be adjusted by having an inclusive salary, which need not necessarily be higher than the present salary?—That is so. In fact, I think, if the Treasury accepted the principle we are contending for, if any compensation were payable, it would be payable to the Treasury from the county, because the Treasury would increase the Procurator Fiscal's salary by a sufficient amount and so relieve the county. If any compensation did emerge it would be between the county and the Treasury.

60,080. It need not increase the salary of any future Procurator Fiscal?—I quite agree.

60,081. Besides acting as prosecutor, or examiner of papers for counties, the Procurators Fiscal afford help to smaller bodies, such as Parish Councils and School Boards?—Only where there is under the Act which the Parish Council or the School Board may administer a direction that the offence is to be tried by the Fiscal, in which case the Fiscal institutes the prosecution, but not under the Crown; he does not require to go to the Crown, but takes instructions from the prosecuting authority, and in the majority of cases he makes a charge. I believe many of the authorities rather contest his right to make a charge, but I think a great many pay something.

60,082. We shall not have any representatives of the parishes here, I suppose, but do you think a similar solution of the difficulty in the case of the Parishes and School Boards might also be desirable?—I think that all public prosecutions carried out by the Procurators Fiscal should be covered by an inclusive salary, and that they should prosecute all offences, whether common law or statutory, in the counties.

60,083. That is to say, it should be part of his official duties?—It should be part of his official duties. I think in many ways it would improve the status of the Procurator Fiscal, because if he collected all these small items it would obviously mean that he is entitled to some increase of remuneration, and it removes any suggestion as to making a business out of criminal prosecutions.

60,084. A suggestion has been made that the matter might go a little further than that, and that a Procurator Fiscal who, as part of his official duties and for an inclusive salary, is acting in prosecutions on behalf of small local authorities in Scotland, might also act in non-criminal business on their behalf, for instance, in buying land, or doing any other legal work, as part of his official duties. That would save a great deal of expense to the smaller local authorities, and would provide a more dignified position for the Procurator Fiscal himself, and make it more likely that we should be able to employ Procurators Fiscal who would give their whole time to the work?—That is a novel suggestion to me, and one would like to turn it over in one's mind. There is this objection to it, that the official who devotes himself to a specialised subject becomes a specialist. Now to entrust the ordinary Procurator Fiscal, as I know him, with conveyancing work, which is very intricate, would be a little anomalous, I think. Some of the Procurators Fiscal, as a matter of fact, are

not qualified law agents. Mostly now, I think, they are; but I have known very responsible Procurators Fiscal who were not qualified law agents, and who therefore could not undertake that class of work—at least they could not charge fees for it. I am afraid it would be looked at a little askance by the profession; I agree that most of the Procurators Fiscal are now men who pass their legal examinations and are qualified in their profession; but they are specialists, and I think some of them would look rather aghast at the idea of doing conveyancing work at this stage.

60,085. I have been a member of a County Council for a considerable time, and I think buying of land for the purposes of new schools does not involve necessarily very difficult conveyancing work, does it?—Have you ever seen a Scotch title?

60,086. Yes?—I am approaching the matter with an absolutely open mind, but the best way of illustrating it is to take one's own position. I suppose in my day I was quite a good conveyancer; I still do a great deal of conveyancing in my office, but I would not undertake without very responsible assistance from a man specially qualified in the work to prepare a title to-day because I am a specialist in particular work. Mr. Shaw, on the other hand, who keeps himself abreast with things, and who does private practice, of course would do it.

60,087. That is in reference to the question of buying land?—I think that is, perhaps, going a little too far.

60,088. But there are other questions, such as settling claims for compensation, which come day by day before a municipal body, which could be well done by anybody who is a qualified law agent and is on the spot?—I quite see the point, and the attraction of it from certain aspects; but on the other hand I see grave difficulties. I think, for instance, the Treasury, or, as we know it, the branch of the Treasury called the Exchequer in Scotland, would be rather averse to their specialists in criminal work having an excuse for saying, "Well, I am very busy doing other work." (*Mr. Shaw.*) I think that the Parish Councils and School Boards and other authorities that you suggest might be met in this way would object to it. They would infinitely prefer, I think, to select their own conveyancer and whoever they wanted to do the work for them. I think you would find strenuous objections from Parish Councils, and School Boards particularly.

60,089. But it might be cheaper, might it not, in the case of a small local authority whose clerk was not a qualified lawyer and not able to give his full time to the appointment?—Manifestly, if they can get it done for nothing it would be cheaper; but in Scotland the general rule, except in the very rural districts, is that the School Board Clerk, the Parish Council Clerk, the Heritor's Clerk, and nearly all those sort of people, are law agents practising in the locality. (*Sir Thomas Munro.*) It is rather a novel suggestion, and therefore one does not want to dispose of it at once by giving an absolute negative or affirmative. I have been trying to figure in my mind the class of work where the Procurator Fiscal would be useful, and I confess, honestly, just on the spur of the moment, if you eliminate conveyancing, which is, after all, a comparatively rare occurrence in the case of the School Boards or Parish Councils, except the very large ones, I am not able to figure out where the Procurator Fiscal could usefully intervene. Might I ask whom the suggestion emanated from? If from the Procurators Fiscal they might have suggested to the Honourable Commission how they could be useful?

60,090. It emanated from a distinguished Scotch lawyer, but not a Procurator Fiscal. At present do the Procurators Fiscal do the work of enforcing the School Attendance Acts where it is necessary to prosecute a parent?—They may. In my opinion they should.

60,091. (*Miss Haldane.*) Is not that a class of work that they might do?—I am quite at one with you. Whenever you find that a duty is imposed upon either the Crown or a local authority of invoking the aid of the Court, keep away from the private agent and give

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it to the public prosecutor. We are at one with regard to that. (*Mr. Shaw.*) Quite.

60,092. (*Mr. Graham Wallas.*) There is a lot of minor work in connection with the Public Health Act?—Yes.

60,093. Might not that normally pass through the Procurator Fiscal?—There is nothing to prevent a Procurator Fiscal doing that just now, I should think. As a matter of fact, the prosecutions under the Public Health Act in most cases are at the instance of either the solicitors of the local authority or qualified agents. In my own county for the Public Health Act most of the local authorities employ a qualified law agent who has made himself rather an expert in the matter; but I do not think there is anything to prevent the Procurator Fiscal being employed in that class of work if the Treasury allow it; the same with the Food and Drugs Act, and things of that kind.

60,094. In Scotland, the county is the public health authority?—The County Council is the public health authority, but the administrative authority is the County Council and the District Committee, which is composed of representatives of the County Council and representatives of the Parish Councils. You may say that, differing from England, the County Council and District Committee are the local public health authority. (*Mr. Shaw.*) I think the sort of prosecution which you have in mind is one that has frequently come before me in my capacity as an honorary Sheriff Substitute of the county. The Parish Councils have to prosecute in cases where a man neglects to aliment his wife or his children when he is able to do so. I have found that in order to obtain the fees, I suppose, for conducting the prosecution, the parish clerk frequently appears and conducts the case himself, and he is totally unable to do so. It would be very much better that it should be conducted by a Procurator Fiscal. Whenever it is Court work I think your suggestion is perfectly correct, but when it is not Court work, but conveyancing or ordinary practice, then I think you would find that in Scotland the smaller local authorities are well provided in that respect.

60,095. But all Court work arising out of the great body of compulsory statutory legislation of late years could well be done by the Procurator Fiscal for the local authority?—Certainly. (*Sir Thomas Munro.*) Going back to our original report, the second recommendation of the Association of County Councils is: "As regards contraventions of statutes, by-laws, &c., "prosecuted by Procurators Fiscal, a general arrangement should be come to under which, in each case "where any penalty or expenses recovered would go to "Exchequer, the Procurator Fiscal's remuneration and "all expenses incidental to the trial would be borne by "the Treasury." In addition to that we recommended that as far as possible all prosecutions should be by the Procurator Fiscal. (*Mr. Shaw.*) Yes; that is the practice in most counties. In my own county, for instance, I made a special point of it, because I think it is quite wrong that anybody who is interested in causing the prosecution or raising the prosecution should get any remuneration out of it. (*Sir Thomas Munro.*) As a further illustration of this particular point, I find in the county of Inverness they pay a salary which covers the class of case we think should be paid for by the Treasury and on which we have represented to-day, and also includes all contraventions of statutes for which the County Council would be liable to pay the expenses under statute. In other words, they pay the Procurator Fiscal, not only for the class of case which we think should be paid for by the Treasury, but in the salary they include any work of a public prosecuting nature. That is a very sensible arrangement.

60,096. (*Sir George Paul.*) Your main point is very much a question between the County Councils and the Treasury, is it not?—Quite so.

60,097. As to who should bear the cost?—Yes. May I add one word? It is only fair that if this arrangement is given effect to, then any allowance which the Treasury now makes to the county through the police or otherwise towards the pay of the Procurator Fiscal's officer—the police officer who assists the Procurator Fiscal—should cease in future to be paid to the county because they are being relieved of the duty.

ONE HUNDRED AND FORTY-SECOND DAY.

Thursday, 24th June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir DONALD MACALISTER, K.C.B.
Sir JOHN ARROW KEMPE, K.C.B.
Sir GEORGE MORISON PAUL.
Mr. ARTHUR BOUTWOOD.
Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. PHILIP SNOWDEN, M.P.
Mr. GRAHAM WALLAS.
Miss HALDANE.
Mrs. DEANE STREATFEILD.
Mr. E. W. H. MILLAR (*Secretary*).

The Right Hon. ROBERT MUNRO, K.C., M.P. (*Lord Advocate*), called and examined.

60,098. (*Chairman.*) You hold the office of Lord Advocate?—I do.

60,099. Will you tell us what your previous professional and political experience has been?—I was called to the Scottish Bar in the year 1893. When the late Liberal Administration came into office in 1905–6 I was appointed to the post of Advocate Depute in the Sheriff Court. I subsequently held in succession the post of Extra-Avocate Depute, the post of Junior Counsel to the Inland Revenue, the post of Ordinary Advocate Depute, the post of Senior Advocate Depute, and in October 1913 I was appointed to my present position.

60,100. We should like first to have some information about the departments which are more particularly subordinate to the Lord Advocate. In the first place

will you tell us about the Advocates Depute?—There are four Advocates Depute appointed by the Lord Advocate. They conduct prosecutions in Court at the instance of the Lord Advocate, and act in the general discharge of the duties which devolve on the Lord Advocate in virtue of his position as Public Prosecutor. In addition to the four Advocates Depute there is an Extra-Avocate Depute attached to the Glasgow circuit, which is the heaviest circuit in Scotland, and accordingly there is an Extra-Avocate Depute who appears in one of the two courts of the Glasgow circuit, while an ordinary depute appears in the other Court. These ordinary Advocates Depute receive a salary of 700*l.* a year. The Extra-Avocate Depute receives remuneration at the rate of 52*l.* 10*s.* for each circuit, of which, generally speaking, there are six in the year at Glasgow. The Advocate

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Depute in the Sheriff Court is paid by fees. I may say that the Advocate Depute in the Sheriff Court is a practising counsel of the Scotch Bar, and in important cases where the Lord Advocate thinks it proper that exceptional skill should be put at the disposal of the Sheriff Court and of the Procurator Fiscal, the Lord Advocate of the day has the power to send, and in point of fact does send down, the Advocate Depute to the Sheriff Court to conduct the prosecution. That is quite an exceptional duty.

60,101. He may be sent to any part of the country? —To any part of the country from Caithness to Kirkcudbright, as, in point of fact, has happened in my experience.

60,102. Are all the Advocates Depute allowed to carry on private practice?—Yes; all the officials to whom I have referred—the four Advocates Depute, the extra depute, and the Sheriff Court Depute—are practising counsel, and their private practice, while no doubt subordinated to the calls of public duty, proceeds as usual. All these officials do carry on, and, I think, always have carried on, private practice. In addition to these officials there is the legal secretary to the Lord Advocate. He is a member of the Scottish Bar, and receives a salary of 750*l.* a year, together with certain allowances for expenditure when he is detained in London. Apart from his duties as legal secretary, he has two rights which are not very frequently invoked; the one is to appear before the House of Lords in peerage cases and the other is to appear before the Privy Council in baronetcy cases.

60,103. In those cases does he appear for the Crown or for the litigants who may be concerned?—I have only had one case in my experience of which I can speak from personal knowledge. The Lord Advocate of the day is called upon to advise the Home Office, and appears at the Privy Council more as performing the functions of *amicus curiæ* than any other, not taking up, what Lord Dunedin called on that occasion, anything more than an attitude of mild hostility to the claimant. The legal secretary appears as junior counsel along with the Lord Advocate in that capacity.

60,104. Are all those officials whom you have mentioned appointed by the Lord Advocate, and do they go out with him?—That is so. All their appointments fall when the Lord Advocate demits office.

60,105. Is that the case when an individual Lord Advocate demits office, or when the Government as a whole resigns, and there is a change of Government?—I should say that, technically, the appointments fall when the particular Lord Advocate vacates office. I cannot remember a concrete case; but I should have little doubt that they would all be re-appointed, with the possible exception of the legal secretary, by the successor in office of the same shade of politics. I should think so; but that is a matter of conjecture. Perhaps I should add that the Lord Advocate receives, for clerical assistance, a sum of 350*l.* Of that sum, 250*l.* is paid to a clerk who is employed in the department in London or in Edinburgh, as the case may be; he travels from one place to the other, and he, in practice, remains in office though the Lord Advocate goes out of office. The remaining 100*l.* is paid to a clerk in Edinburgh, who acts as clerk to the Lord Advocate in any business in the court in Edinburgh conducted by the Lord Advocate of the day. His appointment also falls when the Lord Advocate goes out of office.

60,106. As you are aware, the Minister, who, in some respects, corresponds to the Lord Advocate, and in particular as regards legal patronage—I mean the Lord Chancellor—has a permanent secretary, and not a political secretary. Has the question ever been considered whether there would be an advantage in making the Lord Advocate's legal secretary a permanent officer, instead of an officer who changes with a change of Government?—Personally I should extremely deprecate any such change. One can only speak of one's own views in a matter of that kind, I think; but my experience is that one's relation with one's legal secretary are of a peculiarly intimate character, and unless one had the free choice of the man whom one desired to have as one's legal secretary,

I do not think the relations would be so agreeable or the public interest be so well served.

60,107. In the case of the Lord Chancellor, his secretary used formerly to be an officer changing with the changes of Government, and, indeed, I find that the Royal Commission on Legal Departments in 1874 made this statement: "We have considered the question whether advantage might not result from the permanent appointment of a secretary who should act in that capacity to successive Chancellors, but looking to the confidential and personal character of much of the business transacted by the principal secretary we do not think that the suggestion of permanence in this appointment would be easily practicable or acceptable to those most concerned." In spite of the opinion held at that time the change was made, I think, in the year 1884, and I believe it will be generally agreed that the result has been eminently satisfactory. Without causing the disadvantages which might have been expected, it has secured a very useful degree of continuity in the administration of the legal departments and the legal appointments. I gather from what you say that you are not of opinion that the same change would have the corresponding advantages in Scotland? —I am not, unfortunately, in a position to say how close an analogue is presented by the Lord Chancellor's position with reference to his secretary to the position of the Lord Advocate and his legal secretary. No doubt a very great deal depends on the man who is chosen as the Permanent Secretary, and a very great deal depends upon the holder of the office to which he is attached; but expressing my own personal view—and I think it consistent with the public interest, as I understand it—I should infinitely prefer to choose a man whose methods of work and methods of thought I am familiar with, and whom I can implicitly trust, and with whom my relations would be extremely pleasant, rather than have a permanent official who might be antipathetic in many ways, and whose methods of work might not be so familiar to me as those of a man whom I selected. I think it is largely a matter of personal preference.

60,108. The work of the legal secretary is, I suppose, almost entirely in personal contact with the Lord Advocate?—Yes, in connection with all correspondence, in connection with Bills in the House, and in connection, in fact, with every duty which the Lord Advocate has to perform. I am not aware really of the precise duties which the Lord Chancellor's secretary has to perform, but I should think there are considerable differences both with regard to quantity and quality between them.

60,109. In particular relation to the legal departments, which is the point which concerns this Commission specially, I think there is this difference: that the Lord Chancellor is much more directly concerned in the control and regulation of the legal departments and their staff than the Lord Advocate is with the similar control of the Scottish legal departments. In that respect I think there is an important difference. But in many other respects I imagine that the work is very similar, and in such matters as drafting Bills, and other political work of that kind, the Lord Chancellor relies on the assistance of his permanent secretary, as I suppose the Lord Advocate relies on his legal secretary? —All I can say is, that I find that the arrangement works exceedingly well, and so far as I have discussed it with any of my predecessors in office they agree that in their case also the arrangement worked extremely well, and could not be bettered in the public interest.

60,110. Will you now tell us about the arrangements of the Crown Office?—The Crown Agent is at the head of the Crown Office, and is appointed by the Lord Advocate. His appointment falls when the Lord Advocate demits office. Under the Crown Agent there are two permanent clerks, both of whom hold Civil Service certificates, and who receive respectively salaries of 500*l.*, increasing by increments of 25*l.* a year to 650*l.*, and 300*l.*, increasing by increments of 10*l.* a year to 400*l.* Those two clerks are entitled to superannuation. The Crown Agent receives for clerical assistance a sum of 680*l.* a year, out of which he pays for three other clerks, who are also employed in the Crown Office.

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There used to be four, but at present the work is being done by three. These three clerks are appointed by the Crown Agent, and in practice they remain in office under successive Crown Agents; they are not pensionable officials.

60,111. What is the work done by the Crown Office?—At present it is almost exclusively concerned with the criminal law of Scotland. Under the Crown Office are the various Procurators Fiscal scattered all over the country, who are in constant touch with the Crown Agent, who report to him regularly the criminal cases which come under their cognisance, in many cases for instructions. These instructions are given by the four Advocates Depute whom I have referred to, one of whom is attached to each of the four parts of Scotland. One has the Home Circuit at Edinburgh; one the west, Glasgow; another the north, Caithness, and so on; and another the south. The Procurators Fiscal report their cases to the Crown Agent, through whom they reach the four Advocates Depute, and they give the appropriate instructions. The Crown Office, of course, has to do with the preparation of criminal cases, which are conducted in Edinburgh, in the High Court.

60,112. To what extent does the Crown Agent carry on the business of the office in person?—In connection with the cases that I have referred to, the criminal cases which are tried in Edinburgh, he has the whole management and responsibility of getting up the case; he instructs the Lord Advocate just as an ordinary solicitor instructs counsel; he is responsible for the preparation of the case, and for its presentation to the Lord Advocate and his junior, who are to conduct it in Court. That is one of his duties so far as trials in Edinburgh are concerned. Then he has the general supervision of the Crown Office, and is responsible for all its work.

60,113. He is a solicitor in practice?—Yes. That, I believe, has been so from time immemorial—he is a solicitor who has an office of his own, and probably partners of his own, and who accordingly divides his time.

60,114. Does he, as a matter of fact, devote much of his time to the work of the Crown Office?—I cannot speak about previous holders of the office. The present holder certainly does to my personal knowledge. I think the time devoted has varied, according to my information, in past days.

60,115. I suppose the actual work of preparing cases for the Lord Advocate and his deutes in so far as it is not done by the Procurators Fiscal, is done by the permanent staff of the office mainly?—They have very important functions to perform I agree, in particular the two clerks to whom I have referred, who are most invaluable public servants. They divide the responsibility, but the ultimate responsibility, of course, rests upon the Crown Agent, who is at the head of the establishment. If I might be permitted, I should like to make a suggestion to the Commission with regard to the Crown Office, which I think, if I may humbly say so, is worthy of consideration. It has seemed to me that its functions might be considerably extended to the public advantage. At present it is concerned, as I said, solely or almost exclusively with the criminal work in Scotland, and I think it is well worthy of consideration whether it might not extend its functions in this way: that the Crown Agent should also have the conduct of all Government legal business in Scotland—I mean civil business. At present that business is scattered over quite a number of private solicitors in Edinburgh. There are solicitors who represent, for example, the War Office, the Treasury, the Board of Trade, the Office of Woods, the Office of Works, and so on. I think it is well worthy of consideration, if I may say so, whether these various functions might not be usefully performed by the Crown Agent in the Crown Office. That would involve, no doubt, an increase in the staff; it would also involve an increase in the accommodation, but according to the best consideration that I have been able to give to it, I think it would have compensating advantages. It would certainly be highly convenient to co-ordinate these various offices under one roof and in charge of one man. It would also result in uniformity of practice.

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60,116. At present does each of those various public departments employ its own firm of solicitors for business which it has to transact?—That is so, and I venture to think that the change suggested might be more convenient and uniform, and also, I may add, efficient and economical. I notice, for example, referring to the last point, that the Civil Service Appropriation Accounts for the year to 31st March 1914, show the following expenditure on law agents in Scotland for sundry departments. I will not trouble the Commission with the precise figures, but the total is 4,415*l.* per annum. I think that even with the increased staff which would be required in the Crown Office, the cost per annum would not exceed on a rough calculation 1,500*l.* to 2,000*l.*, even adding a conveyancing department and a process department, which would probably both be required in the event of any such change as I suggest being made. I would add that if any such change were made, I do think that the Crown Agent would have to be confined to the performance of the duties of his office, and would have to be a whole-time official, who did not in addition to these duties conduct an ordinary practice. It might also for consideration whether he should not be a permanent official.

60,117. I was going to ask that question. Would not there, in the civil work in particular, be considerable inconvenience in having it in the hands of a person who is changed with each change of Government?—I am disposed to entirely agree.

60,118. It strikes me at first sight that there is a difference between the criminal work and the civil work in that respect. In the criminal work a case arises and is done with, but in civil work you have matters going on year after year, and it may be very important that the solicitor dealing with it should have a long knowledge of precedents in the matter?—I agree, if I may say so, that there is continuity in the civil work which renders that proposal eminently desirable.

60,119. A change of that kind would put the system of transacting both the criminal and the civil business somewhat more on the same lines as are followed in England, where the whole of that work is done by permanent officers and not by officers who change with each Government?—Yes. I venture to think that it has the advantages, which I have endeavoured to specify, of convenience, uniformity, efficiency, and economy. I would only add that I would not suggest that the Revenue Department should be treated in that way. The department of Inland Revenue in Edinburgh has a solicitor of its own, who devotes his whole time to the duties, and he has a permanent staff. I would not suggest any change in that department.

60,120. Could all other departments be conveniently dealt with by the same office?—In my humble judgment, they could.

60,121. The volume of work is not too great for that?—I think not.

60,122. (*Sir John Kempe.*) I suppose the Customs work is on the same footing as the Inland Revenue?—That is so. Sir Philip Hamilton Grierson is at the head of that department and has been for years. It is a department where the whole resources are devoted to the work of the Inland Revenue—I mean, it is not like the other offices to which I have referred where the work of a public department is simply an incident in the year's work.

60,123. (*Chairman.*) Before asking you to give us your views on various points connected with particular legal departments in Scotland, there is a general question on which we should like to have your opinion. We have been told by numerous witnesses that, speaking generally, the legal appointments in Scotland are largely made upon political considerations—that is to say, upon considerations of political services rendered. The opinion has been expressed by several witnesses—by the great majority of witnesses—that that system is undesirable, and that it would be advantageous to eliminate the political element in those appointments. Will you give us your views on that question?—I do not agree with the suggestion that it would be desirable to eliminate that element from the system altogether. I am far from saying and far from admitting that in the cases that I have personally had to do with the

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appointments that have been made have been uniformly of a political character, because in many instances, which I can show to the Commission if they desire it, I have promoted from inside the Service instead of making an appointment from outside. My view shortly stated is, that it would be undesirable to lay down an extreme proposition either way. I mean it would be undesirable on the one hand to say that all appointments of Procurators Fiscal and other officials must be made from within the Service; on the other hand, I think it would be undesirable to lay down an extreme proposition at the other end, that these appointments should all be made from outside the Service on political considerations alone. My view would be that you should endeavour to get the best man that you can. If the best man is in the Service, appoint him; if the best man is not in the Service, do not let his political services prove a disqualification and prevent his appointment. My view would be that the middle course is the desirable one, and that one should have a free hand. I think it has worked fairly well, so far as my experience goes.

60,124. The evidence which we have had has pointed rather to this: In cases where a man is appointed from outside the Service, it has not been a question of his political service not being an obstacle to his appointment but the selection has been made on the ground of political services. There has been no allegation that the persons appointed were not competent to fulfil the duties of the post, but it has been stated that it was commonly recognised that the selection was made not necessarily upon the ground of absolute superiority of merit, but upon the ground of definite political services actually rendered?—There is no doubt that that happens, and has happened on many occasions, although I am not aware of any bad appointment which has been made, even assuming that that was the ground on which it was made.

60,125. I think the Commission would be interested to know in your own practice what proportion of appointments have been made by promotion in the Service and what proportion have been made primarily on political grounds?—With regard to Procurators Fiscal, for example, the appointments which have been made in my time have been made at Wick, Duns, Perth, Kirkcudbright, and Portree. The appointment made at Wick was what would be called a political appointment, because in that case I appointed my agent as Procurator Fiscal. That appointment I think can be abundantly justified; I considered him the best man for the post. It is difficult to promote a Procurator Fiscal to Wick—I speak of the place with all respect because I happen to represent it in Parliament—where you are promoting to a post which is not a lucrative one or the place a large one.

60,126. What is the salary of the Procurator Fiscal at Wick?—It is 400*l.* That, as I say, was the appointment of a man whom I considered the best man, and I do not quite know where I could have looked for another. The next one is Duns. That is a peculiar case, because there I combined the office of Procurator Fiscal of Jedburgh with that of Duns, and thereby effected a saving of 150*l.* a year to the public service.

60,127. (*Mr. Philip Snowden.*) What considerations induced you to make this selection for Duns?—In combining the post?

60,128. No, in making the personal selection?—The places are adjacent, and Jedburgh was the place where the Procurator Fiscal was. I understand before my time there had been an idea of combining on the occasion of a vacancy, and when the vacancy occurred combination was given effect to, and Mr. Hilson, who had been serving at Jedburgh with great acceptance for a number of years, seemed to me the best man for the combined post. That was inside the Service and not an outside appointment. The next vacancy was at Perth. To Perth I promoted the Procurator Fiscal who had hitherto been at Kirkcudbright. That was promotion, the salary being considerably more at Perth than at Kirkcudbright. To Kirkcudbright I promoted the Procurator Fiscal who had hitherto been at Portree. It was a sort of “general post,” if I may say so. These two, I need hardly say, were not political appointments.

60,129. (*Chairman.*) We may take it, I suppose, that in the case of promotions inside the Service the selection is made entirely apart from any political considerations?—I think so. All I am entitled to say is, that I have reason to believe that both these gentlemen were appointed at the time when Sheriffs appointed Procurators Fiscal and not the Lord Advocate, and that they were both of a different political complexion from my own. Then in Portree, which was vacated by the translation of Mr. McLean from Portree to Kirkcudbright, I appointed a local solicitor, Mr. Robertson, and there again that would be described, I suppose, as a political appointment. He was, in point of fact, a Liberal agent. I appointed him because I considered, on full inquiry made, that he was the best man for the post. I further considered that in a place like Portree, for reasons which I need not detain the Commission by stating, it was very desirable to have a local man who knew the people, who knew the language, and who knew local circumstances intimately and well from long residence in the place. Mr. Robertson seemed to me, apart from political considerations, to be the best man from that point of view, and, I think, it will be obvious to the Commission that it would have been difficult, if not impossible, to promote another Procurator Fiscal to Portree.

60,130. What is the salary at Portree?—It is small—350*l.* I am told. I think these exhaust the appointments of Procurators Fiscal which I have made since I came into office, and I think the Commission will, therefore, see that the appointments have been a blend, if I may say so. There have been political appointments made because I considered the men who were appointed the best for their posts, and there also have been these cases of promotion to which I have drawn attention. I may say that I entertain a very strong view in favour of the promotion of Procurators Fiscal and of other officials, when that is feasible. I quite agree that it is in the interest of the public service, when you get a man to go to a remote place either as Sheriff or Procurator Fiscal, if he has a reasonable certainty that he is not going to get a life sentence, and has a reasonable assurance that his work is being watched from head-quarters, and that if it is well done he will, in course of time, be translated to a higher post. As I say, you get a better man to accept the small post if he has that in his mind, and he is likely to do his work better and to avoid excesses of various kinds if he has the reasonable assurance of subsequent promotion.

60,131. (*Sir George Paul.*) Mr. Robertson was a solicitor in Portree?—He was.

60,132. And there are not many solicitors there?—Very few; I think three or four at the outside.

60,133. (*Chairman.*) Has your practice in that respect differed from that of your predecessors as regards the proportion of appointments made by promotion from within the Service?—I think I may say not. I think I am entitled to say that I am well aware that I entertain precisely the same view as Lord Strathclyde, as he now is, entertained with regard to the desirability of promotion, and I know he acted upon it. In fact I have the cases before me here in which he promoted on many occasions, but, of course, I do not know the circumstances so intimately as those in which I have been personally concerned.

60,134. Then you would favour applying that principle wherever a suitable man is available within the Service and where special local considerations do not require the appointment of a local man?—I think it is a principle to be applied frequently and I have applied it frequently. I may be quite wrong and the Commission may take quite a different view from mine, but I suggest that in the interests of the public service it is better that one should have a free hand in these matters than that one should be restricted to promote on all occasions rather than take in some one from outside.

60,135. Turning to the other branches of the legal service in Scotland, what is your opinion as to the political system of appointment as applied to the offices in Edinburgh—the offices of the Court of Session and other offices?—As regards promotion?

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60,136. We are told that such appointments as the Principal Extractor, the Principal Clerk of the Bill Chamber, and other appointments of that character in Edinburgh have been filled on the ground of political services, and also (though it is a somewhat different point) that depute clerks of Session have been very often appointed, not on the ground of political services, but on the ground of personal services rendered to the Lord Advocate by his clerk?—That is so.

60,137. We should like to have your opinion on those two points, whether the system which has been followed in the past is the best, or whether it is desirable to make any change in that system?—I think, so far as I know, that the system has worked perfectly well. I do not know of any better. I should apply the same principle to the Court of Session appointments as I have suggested might be applied to the appointments of Procurators Fiscal. But the question of my clerk has been raised. I have not had the opportunity of reading much of the evidence given before this Commission; I am sorry I have not had time to do so, but as that question has been raised and you have alluded to it, I may be permitted to clear that out of the way at the outset. I considered the situation very carefully and before making the appointment I came to the conclusion that I could justify it on the floor of the House of Commons or in any other place if challenged, and I am glad to have the opportunity of stating the circumstances. In the first place the Lord Advocate's clerk has always been singled out for preferential treatment in appointments of the sort that are now under discussion, and I notice that Lord Salvesen's Committee, as probably this Commission well know, on page 11 of their Report say: "On a vacancy occurring in any of the higher grades, we think it should be filled up preferably by the promotion of one of the existing staff—provided his competency has been certified by the Principal Clerks of Session; or, otherwise, by the appointment of the Lord Advocate's clerk, or a judge's clerk who has served as such for at least three years—these qualifications being deemed equivalent to any of those above specified for intrants generally." Lower down the page the Committee say, after dealing with the assistant clerks, "We recognise, however, that in some cases it might be desirable that the Lord Advocate's clerk, or the clerk of one of the judges should be appointed to such offices where the Lord Advocate saw fit to make such appointments, but we think that in no other case should appointments be made from the outside." Accordingly there is a distinct recommendation by that Departmental Committee of preferential treatment of the Lord Advocate's clerk. He is singled out and put into the same compartment with judge's clerks. In addition to that recommendation it is well known that numerous precedents—the Commission may deprecate them or not—for precisely the same act are to be found in our system. In addition to the precedents and the recommendation of the Committee, I had to consider that I was dealing with a man who had given me loyal service for nearly twenty-one years at the Bar, and who had during that time proved himself to be a most efficient and competent servant in the capacity in which he served me, and I had no doubt at all that he would exhibit the same competence and efficiency as a depute clerk. I have not been disappointed. I am assured on all hands that in competence and also, I may add, in popularity, Mr. Smart has given great satisfaction in the Parliament House, and that the appointment has been in the public interest as well. Some criticism has been made on the age at which the gentleman was appointed. I am bound to say that I do not quite see the point of that criticism unless it be to suggest—and I am repudiating the suggestion—that at 67 he was incompetent to do his work. That is not so. His competence at that age was in my humble judgment as great as it was 20 years before. He has picked up the work rapidly, and unless it is a criticism upon his competence at that age I am afraid I do not follow it. There is this advantage, if I may say so from the public point of view; he does not qualify for any pension, and he costs the State nothing

when he retires, as he is bound to do at 70. I do not want to take up the time of the Commission on this matter unduly. I pass from that now, subject to this, that I am desirous of answering any questions that any particular member wishes to put to me regarding that appointment.

63,138. How long had the gentleman whom you appointed served you as Lord Advocate's clerk?—Since my appointment in 1913—a comparatively short time.

60,139. Was it very shortly after your appointment as Lord Advocate that he was appointed?—It was certainly not long. I cannot remember now—a matter of probably months, I think I am right in saying. Might I just add this with regard to the appointments by Lord Advocates of their clerks? They have been called, as I believe erroneously, political appointments. I want to point out to the Commission, if I may, what the position of a clerk in the Parliament House is. He is clerk to possibly half a dozen or a dozen men of varying shades of politics. Some one of them, who may be a Conservative or a Liberal or a Coalitionist in these days, may attain to a high position of office afterwards, but he does not know which of them; he does not trim his sails and adapt his politics so as to ensure a future appointment for himself. I have a case in mind which I think I might state without offence to anybody. I intended to state it in Lord Dundas's presence if he had been here. There was a gentleman who was a clerk in the Parliament House to Lord Dundas as a practising counsel and also to Mr. Ure, now Lord Strathclyde. I do not know what the politics of that particular clerk may have been, but he served, amongst others, these two gentlemen representing opposite shades of politics, one a Lord Advocate under a Liberal Government, the other a Solicitor-General under a Conservative Government. He is an assistant clerk of Session to-day. I do not know what his politics are. I merely mention that case in order to point out, if I may, that you can call it a personal appointment if you please, but please do not call it a political appointment, because, except in the sense that it is made by a person who happens to be a member of the administration of the day, it has got nothing to do with politics.

60,140. The suggestion with regard to these appointments is rather as regards their depressing effect on junior members already in the Service who have been looking forward to promotion to a post which is in that way filled from outside?—There I found myself on the Report of the Departmental Committee, which singles out two classes of people—Judges' Clerks and Lord Advocates' clerks—and puts them in the same category with members of the Service, with similar rights. That may be right or may be wrong, but it is the recommendation of Lord Salvesen's Committee, and it is in accordance of the practice for many years.

60,141. Apart from the question of precedents and apart from any particular cases, may I ask whether it is your opinion that, as a matter of principle, it is desirable that appointments of that kind should be made?—I should say what I have said before, if I may repeat it, that I should desire that the Lord Advocate of the day, whoever he might be, should have a free hand in the matter, and he may be left, I think, very safely to the judgment either of Parliament or of a Royal Commission or of the Parliament House. There are very shrewd critics to be found in the Parliament House, and if anything savouring of a job were perpetrated by any Lord Advocate of the day—I do not know of any, but if it were to be so and were so regarded, I do not think that the Parliament House would be backward in expressing its opinion, nor probably the House of Commons either.

60,142. (*Sir Donald MacAlister.*) Has the Lord Advocate a free hand with regard to his clerk? Has not the clerk a traditional claim to a vacancy?—I think I should be correct in saying that that is so—a traditional claim; it is held by tradition—it may be right or it may be wrong. I am conservative enough to believe in that tradition.

60,143. (*Chairman.*) Returning to the question of political appointments proper, which as you have pointed out are to be distinguished from appointments for personal services, you were about to give

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us your opinion on the question of principle, whether such appointments are desirable?—Of course, the Commission will probably regard me as a prejudiced witness in this matter, but I do think that the present system is better than anything that can be substituted for it. I have not heard of any effective substitute. I should be quite willing to consider it on its merits if I did hear of it. I think the present system, with its blend of promotion and political appointments, if you like, has worked exceedingly well so far as the Court of Session is concerned, in my experience.

60,144. The object of an appointment, I suppose, is to get the best man for the Service generally, looking both at the particular post, and the effect on the holders of other posts. Looking at it first of all as affecting the particular post, would it be the case that selection on the ground of political services would invariably secure the best man for the post?—Not invariably—I should not say that. I am not contending for an invariable selection of appointees chosen on political grounds.

60,145. Then you would limit it to the case where a person who has political claims to a post is without doubt the best person for appointment to that post?—I think it is a question of circumstances in each particular case. There is such a very large variety of circumstances to be borne in mind, and unless one trusts the holder of my office to give fair consideration to those, I really do not know any other principle that can be laid down. To suggest that the posts are all to be filled by promotion or any such cast-iron system, would, I think, be disastrous to the public service.

60,146. Clearly if there was not a fit man available for promotion to a higher post it would, as you say, be disastrous to lay down that it should be filled by promotion; but assuming that an appointment has on occasion to be made from outside the Service, does not it hamper the choice of the best man if it is part of the recognised and traditional system that political services should have considerable weight in the selection?—I do not think so. With reference to the Court of Session we are speaking, I take it?

60,147. We are taking that as an instance?—My view very strongly is—again I say I may be regarded as a prejudiced witness—that the selection in the particular circumstances in which the vacancy arises should be entrusted to the discretion of the holder of my office, who may be trusted.

60,148. Take the case, for instance, of the Principal Extractor, who appeared before us as a witness yesterday; I believe he is an extremely efficient official?—That is so.

60,149. He told us candidly the political services for which he was appointed. Supposing there was a vacancy and it fell to you to select a successor, if your hands were perfectly free to select the best man for the appointment, you would have the whole field of the legal profession in Scotland to choose from. If your hands were to some extent tied by the tradition that such appointments were made for political services, you would be limited to a certain small and select number out of that profession who have rendered such services?—If I may say so, where we differ is that I do not regard my hands as in any way tied in order to make a political appointment. There is the one exception, perhaps, of the Lord Advocate's clerk which has been discussed, and that, as I say, is a personal appointment, and there is tradition there, which is of a somewhat insistent and compelling character, as has been pointed out to me. Apart from that, I do not regard my hands as tied in making any appointment by any tradition with regard to political services. I consider myself free to promote or appoint from outside as I think best.

60,150. Supposing the conspicuously best person had been a political agent to the other side, would the tradition permit you to appoint him to a legal post?—I should certainly consider the case on its merits.

60,151. Has such an appointment ever been made?—There is the appointment of Lord Kinross, which is a very striking example. He was appointed Lord President of the Court of Session by the Conservative party. Mr. Scott-Dickson has been appointed Lord Justice Clerk of Scotland, I will not say by the Liberal party but under a Coalition Government. I am far from saying

that the appointment would not have been made otherwise.

60,152. In the case of Lord Kinross, what post was he holding when appointed Lord President?—He was Lord Advocate, according to my recollection.

60,153. (Mr. Philip Snowden.) Lord Advocate, did you say? That would be a political appointment, then?—I beg your pardon, he had been Lord Advocate. He had held that post, and was appointed by the Conservative Government to be Lord President. Of course he was not Lord Advocate at the time.

60,154. (Sir George Paul.) And he was a very eminent member of the Scottish Bar?—Oh yes, as you know, Sir George, one of the most eminent that the Scottish Bar has ever known. That is a somewhat striking example of the question that you put to me. I cannot recall the cases, but I think there are other cases.

60,155. (Mr. Philip Snowden.) Would that be patronage exercised by the Lord Advocate or by the Government?—The Lord President is not appointed by the Lord Advocate.

60,156. Quite so. Then it has not much bearing on the point we are discussing just now with regard to the Lord Advocate's patronage?—To that extent I agree it is irrelevant. It is not made by the same person, but under the same administration.

60,157. (Sir George Paul.) I think such appointments are made by the Prime Minister?—The Lord President is appointed by the Prime Minister, as is the Lord Justice Clerk, the Lord Advocate, and the Solicitor-General.

60,158. (Chairman.) Various suggestions have been made to the Commission in evidence as to alterations in the present method of appointment, the object of those alterations being the elimination of the political element in appointments. I gather, however from what you have told us that you do not consider it necessary or desirable to eliminate the political element?—I do not.

60,159. Except so far as you have spoken of the advantages of making promotions, where possible, in the Service?—Yes. The suggestion you are referring to is the appointment by a commission, I think. I have read about that.

60,160. Two suggestions have been made; one that the Lord Advocate should be assisted in selecting among possible candidates for legal posts by a non-political committee, of a similar character to the committee which has been suggested to us for assisting the Lord Chancellor in the case of English appointments. The other suggestion was that the patronage at present exercised by the Lord Advocate should be transferred to the Lord President of the Court of Session, in the expectation that, as he is a non-political officer, he would exercise the patronage entirely on non-political grounds. Will you give us your opinion on each of those two suggestions?—If I may say so, I am against both, and very strongly indeed. With regard to the suggestion of a committee, I think that is open to two objections. The first is that it is unnecessary, and the second is that it is undesirable. It is unnecessary, from this point of view at least, that in England, I understand, where the area is large, it may be difficult, or, indeed, impossible, for the Lord Chancellor to have personal knowledge with regard to the various people who have claims to advancement or who desire to be appointed; but that consideration really does not apply in Scotland, where the area is very much smaller, and where the Lord Advocate of the day is in constant touch, either directly or indirectly, with everybody who desires an appointment of whatever character. I think from that point of view it is quite unnecessary to have a committee. As regards it being undesirable, I am always against putting responsibility in commission, as it were. I think it is extremely difficult to work out. I think the pressure, even if you had a non-political committee to advise the Lord Advocate, would be increased to the *n*th degree by the mere fact of having a commission composed of a variety of individuals, all of whom would be written to and pressed to support the claims of candidates. I really do not quite know what are the powers which it is suggested that the committee should

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have. Either they are to have the power to override the discretion of the Lord Advocate or they are not. If they are to have power to override his discretion in making the appointment, I venture to say that that would be quite intolerable, and would reduce the office which I hold to the most undignified position conceivable. If, on the other hand, they are not to have power to override, it seems to me that they are superfluous, keeping in mind that they are not required in order to inform the Lord Advocate of the day regarding the qualifications of the various applicants for office.

60,161. The suggestion was, that the final responsibility for appointment should rest with the Lord Advocate, but that the committee should report to him on the candidates, and, naturally, he would have to be prepared to justify his action if he selected otherwise than as recommended by the committee?—To justify it in Parliament?

60,162. In Parliament?—It seems to me that that might lead to very curious consequences. If Parliament were to be informed that the committee had taken one view and the Lord Advocate had taken another, and that it fell to him to justify his view in the absence of the committee who would be unable to explain theirs, I am bound to say that it does not seem to me, with great respect, a very useful suggestion. At any rate, I do not think it would serve any useful purpose in Scotland from the point of view, as I say, of informing the mind of the Lord Advocate of the day. As to getting advice with regard to, say, Sheriff Court appointments, he can get advice under existing circumstances; and he often does—and acts upon it—from the Sheriff and people who are intimately acquainted with the candidate if the Lord Advocate should happen not to be—and that last is a rare occurrence in my experience. As regards the Lord President appointing, I venture to suggest that it is not consistent with the dignity of his office that he should meddle in matters of that kind where, do what he might, his action would be subject to public criticism—newspaper criticism possibly—and then he would be without an opportunity of answering. He is not in Parliament, and he cannot write a letter to the newspapers consistently with the dignity of his office. I think it would introduce the head of the Court into an arena which is quite unfamiliar to any Lord President of whom one has known or heard. There is the further difficulty, as it seems to me—I think it has been mentioned, so I have been told—that the Lord President, especially after a considerable tenure of office as such, is to a large extent out of touch with candidates, and would require, if you like, a committee to tell him something about them; whereas the Lord Advocate, who is on the floor of Parliament House, and in constant touch with the Bar and the other officials up and down Scotland, is in a very much better position to know the candidates who apply for posts. Therefore, so far as I have been able to consider the matter at all since I heard of the two suggestions, I should respectfully oppose both.

60,163. Then your conclusion is that you would leave the method of appointments as it is at present, in the hands of the Lord Advocate and entirely at his discretion?—That is so; subject, as I think it is, to the wholesome check of public opinion, professional opinion in the Parliament House, opinion in the country outside in the districts affected, and opinion in Parliament. His conduct is open to challenge in any of those ways, and very effective challenge too; and I think the absence of any such challenge on any occasion that I can think of is one of the best tributes to the success of the present system.

60,164. Do you think it desirable that the system of promotion should be extended?—As I said, I am very strongly in favour of the system of promotion, but whether it should be extended further than I have extended it I am not prepared to say.

60,165. Would you apply it in the different departments of the Court of Session, for instance? Would you make appointments by promotion there when practicable?—I think so. I have made appointments to the Court of Session by promotion—clerkships, for example, and I have a note of them. I have had several clerks to appoint in the Court of Session. In August

of last year I promoted Mr. Antonio, who was an ordinary Clerk of Session, to be Depute Clerk of Session. I promoted Mr. McLaren, who was an ordinary clerk in the Bill Chamber, to be an Assistant Clerk of Session. I appointed Mr. Carragher, who was a clerical assistant in the Bill Chamber, to be an ordinary clerk in the Bill Chamber. So the Commission may give me credit in the appointments with which I have been personally concerned for having given a very large tinge of the principle of promotion in the making of these appointments. These are the clerkships about which you have been asking, all of which instances are instances of promotion.

60,166. Whether your successor took the same view of the question of promotion would entirely depend upon his personal opinions?—That is so.

60,167. Can you suggest any means by which his personal opinions could be effectually influenced in the direction of following the same system that you have followed?—I am afraid I cannot. I should put it negatively, and say that probably one of the worst ways to influence it would be the advice of his predecessor. I think it would have to be left, if I may say so, to the discretion of a man who is thought of sufficiently sound judgment and responsibility to receive the appointment.

60,168. Is there considerable pressure in favour of appointments from outside when vacancies occur?—I do not disguise the fact that one receives, whenever there is a vacancy of the kind that we have been discussing, hundreds of letters in favour of this, that and the other candidate, both inside and outside.

60,169. It would entirely depend on the personal disposition of the Lord Advocate of the time what weight he allowed such pressure to exercise upon him?—Subject to the considerations I have mentioned, namely, that I think anyone holding the office which I have the honour to hold, must be trusted to a large extent to exercise a fair discretion in the public interest, and not to subordinate the public interest to his political views, whatever colour they may be.

60,170. There is one point as regards the Lord Advocate's clerk which we should be glad to have cleared up. One witness told us that the Lord Advocate's clerk, in the sense in which the term has been formerly used, had ceased to exist, and that you had appointed as a clerk a permanent officer from the Scottish Office. Is that accurate?—I think there is some confusion about that. I remember there was some rearrangement in Lord Strathclyde's time with regard to the Clerk in London, but that has no reference to the Clerk to the Lord Advocate, who serves in the Parliament House in Edinburgh. He is quite a different official. The arrangement has no reference to my clerk who was appointed and to whom reference has been made. In the sense of a clerk in Edinburgh, who serves the Lord Advocate, there is still a clerk who does serve the Lord Advocate in Edinburgh.

60,171. Does the statement I have referred to relate to a clerk who is paid out of the clerical allowance to the Lord Advocate?—I think that is the reference. I confess my recollection is not clear about what happened in Lord Strathclyde's time, but all I can say quite definitely is, that if the suggestion be that the Lord Advocate of the day has ceased to have a clerk in the Parliament House, Edinburgh, the suggestion is quite wrong.

60,172. There is still a clerk in the Parliament House at Edinburgh who probably shares the expectations of his predecessors as to his ultimate destination?—I do not know if he is of a sanguine disposition or not.

60,173. (*Sir George Paul.*) I think you explained at the beginning that you still have a clerk in Edinburgh who gets 100*l.* a year for official duties, and who also acts as your clerk in your private practice in the Parliament House?—He acts as my clerk as regards private business, but I am afraid nowadays the Lord Advocate has very little opportunity of indulging in that luxury; he attends to certain business for me in Edinburgh—correspondence, and so on. Then there is a clerk in London who receives the balance of 250*l.*, making up the 350*l.* which I am allowed for clerical assistance.

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60,174. (*Mr. Philip Snowden.*) And is the London clerk a permanent Civil servant? As I understand the evidence which has been referred to, the system adopted by Lord Strathclyde (*Mr. Ure*) was the system with regard to the appointment of private secretaries to Ministers generally, and that is, to select some clerk who was in the department already. Is not that the case?—I ought to know, but I am sorry to say I do not know whether this particular clerk, *Mr. Herd*, is pensionable or not. That is really the point of the question.

60,175. What were his antecedents? What was he doing at the time he was appointed clerk to you?—He was a clerk in the Crown Office in Edinburgh, and was appointed from the Crown Office to be clerk in the Lord Advocate's Department. It was an appointment from inside.

60,176. (*Chairman.*) And if he ceases to hold that appointment will he revert to the Crown Office?—I think I said that in all probability, though the tenure of office of such officials is precarious, he would carry on even if there was a change in the office of Lord Advocate.

60,177. There are certain points relating to the offices of the Court of Session on which we should be glad to have your opinion. In the first place, it has been suggested to the Commission that it is eminently desirable that the offices of the Court should be transferred to the Parliament House or placed in close proximity to the Parliament House?—As to that suggestion I entirely agree. I think it would be most convenient. I do not know whether any members of the Commission had the opportunity of seeing the antique system of carting papers from the Register House, and *vice versa*, to the Court of Session daily. It is really extraordinary that it has prevailed so long, I think.

60,178. It was suggested also that if that transfer was effected it would be possible to make some economy in the staff;—for instance, by combining the separate judge's offices into one office for the custody of processes and reception of papers, and so forth?—I should have thought there would be resulting economies.

60,179. It has also been suggested that the minor departments, such as the Extractor's Department, and the Bill Chamber, should be brought rather more directly than they are at present under the control of the Principal Clerk of Session, and that the practice of regarding them as a single whole for the purpose of promotion should be extended. Are you in favour of changes in that direction?—My recollection is that I read some evidence which was given on that point, and I rather agreed with it. I do not remember who the witness was who said it was questionable whether it was worth while, considering the small number of departments, to co-ordinate them; you could not have the Teinds Office and the Justiciary Office combined.

60,180. The suggestion really applies to the other offices with the exception of those two, and, as you say, the scope is not great?—The residuum is small, but I think the principle is excellent. Whether it is worth while may be a matter which is open to doubt.

60,181. Some questions have been raised as to the management of the Register House Departments and the functions of the different authorities concerned in their control. The authorities concerned are the Court of Session, the Deputy Clerk Register, the Secretary for Scotland, and the Treasury. There is some difference of opinion as to the exact degree in which the Deputy Clerk Register should be responsible for all the Register House Departments, and in particular for the Register of Sasines. The suggestions made by several witnesses come to this, I think: That the Deputy Clerk Register should have full responsibility for the departments subordinate to him, the Treasury being ultimately responsible for the regulation of staff and salaries, the Secretary for Scotland for discipline, and the Court of Session for all matters affecting the system of keeping the Register, and the method in which the legal part of the work is arranged. Have you any observations to make on those suggestions?—Honestly, I should prefer not to express an opinion on that subject. It is a very thorny one, I know. I have heard about it, but it is quite out-

side my department. I have nothing to do with the Register House really, and I do not know enough about the ins and outs of the controversy to offer any opinion of the slightest value to the Commission. I would willingly do so if I thought I could help the Commission, but I really fear I cannot.

60,182. Is the Lord Advocate responsible for any appointments in the Register House Departments?—No, I think I am correct in saying that I have nothing whatever to do with those appointments. The Deputy Clerk Register and the Keeper of the General Register of Sasines are both Crown appointments; I do not either nominate or recommend. Nor do I have anything to do with the patronage of the Keeper of the Register of Deeds, the Deputy Keeper of Records, the Curator of the Historical Department, or any other official; they are appointments which are all made by the Secretary for Scotland. Really, the Register House is beyond the ambit of my duty or official knowledge.

60,183. Turning to the Sheriff Clerks and their offices, you are acquainted with the recommendation of Lord Salvesen's Committee in favour of the reduction of the number of Sheriff Clerks, so that there should be only one Sheriff Clerk for each sheriffdom. In that way the number of deposes would be increased; and the Committee suggested that a certain number of deposes should constitute a special class of whole-time deposes. It may be inferred, although it is not definitely recommended by the Committee, that the intention was that the Sheriff Clerks and the special class of deposes should be made pensionable officers, at any rate so far as they are whole-time officers?—I entirely agree with those views. So far as the reduction in number is concerned it does not seem to me a very vital affair. It is largely a question of nomenclature; you may call a man who is left a Sheriff Clerk or a Sheriff Clerk Depute; but you have to have an official there, although you may have a cheaper one.

60,184. Is not there this difference of organisation: the staff in all the offices under the Sheriff Clerk is appointed by the Sheriff Clerk, and therefore, if you diminished the number of Sheriff Clerks from 33 to 15, you would reduce the number of separate staffs to which appointment is made by a separate person?—That is so.

60,185. That touches on the further question—the position of the staff in the offices of the Sheriff Clerks. They are at present appointed by the Sheriff Clerks, and are not pensionable. Two claims have been made, one that the staff or, at any rate, part of them, should be made pensionable; the other, that promotion by transfer from one place to another should be more frequent than it is at present?—With regard to the latter suggestion, I think it is a very good one, subject to the practical difficulty that these officers are so indifferently remunerated that the cost of removal would be a very serious consideration if it happened to be a long journey. I would venture to suggest that if any such recommendation were contemplated it might be possible, just as in the case of the removal of Sheriffs, that there might be some grant from the Treasury to defray the cost of removal. When Sheriffs are transferred from one place to another the Treasury make an allowance of something about 50*l.* where a transfer does not involve, if I remember rightly, an increase of more than 100*l.* of salary to the man who has been transferred. That seems to me a very useful and humane arrangement which might with advantage be applied to the transfer of a humbler official like a Sheriff Clerk Depute, to whose advantage it might be to go, but whose advantage might be more or less neutralised by the cost incidental to going.

60,186. (*Sir George Paul.*) I think that is also the practice in the case of banks in Scotland?—I am told the same principle applies to banks.

60,187. (*Chairman.*) If a system of that kind is to work satisfactorily and freely it would appear to require some central body, or authority of some kind, who would be able to take a general view of all the separate staffs; and the suggestion was made that a small committee of Sheriff Clerks might be appointed to deal with the question of transfer from one place to another. Does that appear to you to be a practical

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suggestion?—I do not dissent. I am afraid I have not considered the point, and have not had an opportunity of reading much of the evidence; but *prima facie* that sounds a reasonable proposal.

60,188. There would clearly be some difficulty in making a transfer unless there was something in the nature of a clearing-house at a central point where applications and vacancies could be brought together?—Yes.

60,189. What is your opinion as to the claim to make a portion, at any rate, of the staff pensionable?—I am in entire accord with that proposal. I assume, of course, a whole-time service.

60,190. You would only apply it in any case to whole-timers?—I think so; but I am bound to say that I regard the claims of the Sheriff Clerks Depute to some amelioration of treatment as one of the most clamant of the various reforms which are awaiting fulfilment.

60,191. You think that their position at present does not correspond to the functions that they perform?—I do indeed. I have had the opportunity, I may say, of meeting deputations from the Sheriff Clerks Depute of Scotland, who presented their case most moderately and temperately, and it is regrettable, although it may be inevitable, that many of the valuable recommendations made so far back as 1911 have not yet been carried out.

60,192. Have you any knowledge whether there is difficulty in recruiting the staff of the Sheriff Clerks' offices at present?—I am afraid I have not. I cannot speak from personal knowledge of that matter.

60,193. A similar question has been raised in the case of the Procurators Fiscal—whether it would be practicable and advantageous to diminish the number of districts and so to increase the number of whole-time posts. That, of course, has some connection with the question of the restrictions on private practice?—I was not aware of the suggestion to restrict the number, but as regards private practice the invariable system now is to appoint Procurators Fiscal subject to the restriction that they shall devote their whole time to the duties of their office.

60,194. Even in the smaller places?—I am aware of no recent appointment where that condition has not been inserted. I am quite aware that there are Procurators Fiscal in a number of small towns, appointed some considerable time ago, who are entitled to practise privately. There are 15 of such posts, I think, in Scotland.

60,195. (*Mr. Philip Snowden.*) Did Mr. Robertson, of Portree, give up his private practice as a solicitor when he was appointed Procurator Fiscal? That is one of your recent appointments?—Yes. I do not think the Treasury, from my experience of them, would look at any such appointment nowadays apart from such a restriction; at least I have not asked them to.

60,196. (*Chairman.*) Do you consider it desirable from the point of view of the work of the Procurator Fiscal that he should be restricted from private practice?—I do. There may be very exceptional cases in outlying spots where some relaxation of that rule, both in respect of the small remuneration of the Procurator Fiscal, as such, and the small amount of work which he has to do, might be made; but speaking of the general case I am entirely in favour of whole-time service.

60,197. Some witnesses have expressed a strong opinion that, in cases where there is not enough work to occupy a man's time and energies, the restriction on private practice has serious drawbacks, on the ground that a man who is for a large part of his time in enforced idleness is apt to degenerate. Do you attach weight to that?—No such case has come under my personal observation. As stated, it is quite conceivable, but I do not know of any case in practice where it has happened.

60,198. You do not consider that that weighs against the advantage of the restriction?—Not in the general case. As I say, there are one or two particular places, like Lochmaddy, which is remote, where a man, in addition to his office as Procurator Fiscal, was allowed one or two public appointments, both in respect

of the small quantity of work and small remuneration of his office as Procurator Fiscal.

60,199. Do you see any objection to the Procurator Fiscal holding offices of that kind in addition to his own office?—In the general case I think it inadvisable. I think in the general case it is better that the Procurator Fiscal should be clear of all influence which may arise from private practice with its large ramifications, and even from holding certain appointments which may result in complications in the criminal courts.

60,200. (*Miss Haldane.*) Would that apply to prosecutions for School Boards and Parish Councils, and so on?—There are such prosecutions, I think, instituted and carried out by the Procurator Fiscal.

60,201. Would you have any objection to their having that work concentrated in their office?—No, I think I see no objection to that.

60,202. Especially where the clerks to the School Board, say, or the clerks to the Parish Council were not law agents it might be a desirable thing?—For them to hold office as clerks?

60,203. To undertake all the public prosecutions for those public bodies?—I may say that that would be quite in line with their present duties.

60,204. It would correspond really to the concentration you were speaking of in the Crown Agent's office?—Precisely.

60,205. (*Chairman.*) At present none of the Procurators Fiscal are pensionable?—I am sorry to say the office is not pensionable; I wish it were.

60,206. Do you think it desirable that all Procurators Fiscal who give their whole time to their duties should be made pensionable?—I am very strongly of that opinion.

60,207. Do you apply that observation to their staff also—to the deputes and other staff?—With regard to the rest of the staff there is a difficulty. Take the deputes, for example, they are not whole-time servants, and it might be a little difficult to apply pension rights in such a case.

60,208. There is no opportunity of making whole-time deputes?—No, the deputes are really appointed by the Procurator Fiscal, subject to my consent, under the Act of 1907, which transferred the patronage of Procurators Fiscal from the Sheriffs to the Lord Advocate. That Act provides that, with the assent of the Advocate of the day, the Procurator Fiscal may appoint one or more deputes, and in point of fact he does so; but always with the full knowledge and assent of the holder of my office. I may say that I have recently made it a condition that the depute, as a condition of receiving his appointment as depute, shall relinquish the right to practise in criminal matters in the Court where he may be called upon to prosecute as depute of the Procurator Fiscal.

60,209. But he retains his right to practise in other matters?—Yes, because it is a comparatively small amount that he receives; it varies in respect of his services, which are only requisitioned when the Procurator Fiscal cannot take the case himself.

60,210. (*Sir Donald MacAlister.*) His appointment is *ad hoc* to a particular case?—That is so, on a particular day to meet an emergency. I believe there are certain exceptions to that in the larger cities.*

60,211. (*Chairman.*) At present, in the case of a good many of the legal appointments, no age has been fixed for retirement. The suggestion has been made that either the ordinary Civil Service limit of age should apply to all legal departments, or that a special age should be fixed?—I am very strongly of opinion that an age should be fixed, whether 65 or 70. I have no very strong view. I should incline rather to 70 in the ordinary case, but that there should be an age limit I think is urgently required.

60,212. In the case of the offices of the Court, for instance, is there any reason why the limit should be higher than in other parts of the Civil Service?—I do not know that I can specify any reason why it should.

* This answer is not strictly accurate. The appointment covers all cases taken by the depute. But he is only called upon, in virtue of that appointment, to act in particular cases where the Procurator Fiscal cannot himself attend.—R. M.

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60,213. The limit in the Civil Service is 65, with power of possible extension to 70?—Yes, I am aware of that.

60,214. In the case of recent Crown appointments we have been told that the warrant of appointment has in most cases fixed the age of retirement as 70, but that appears not to be invariable, and in some cases no age limit has been fixed?—Yes. That is a very difficult question for me to answer. It is a very wide question of public policy affecting the whole Civil Service. I am unable to point off-hand to any distinctions in the offices I have been discussing from those to which the age limit of 65 does apply. On the other hand I think there are many officials whom I know of in Scotland whom it would not be in the public interest to lose at 65; but that observation probably applies to other places in Scotland. It is a question of relative advantage.

60,215. We have heard that a large number of appointments, especially in the Edinburgh offices, are direct Crown appointments, including some of a comparatively modest character, such as the Macers of the Court. Is there any object in retaining that system of direct Crown appointment for the minor appointments?—None that I can see.

60,216. There is no reason why they should not be appointed by the Secretary for Scotland?—I think it would remove an anomaly if that result were achieved.

60,217. (*Mr. Philip Snowden.*) Was I correct in assuming that the Advocates Depute are appointed on the advent of a new Lord Advocate, and that their appointment ceases when he leaves office?—Yes, technically that is so, because they receive a written appointment, and they receive that appointment under the hand of the Lord Advocate.

60,218. They are men who are in private practice as well as devoting part of their time to the duties of depute?—That is so.

60,219. Are they paid by fees, by commission, or by fixed salary?—Four deputies are paid by a fixed salary of 700*l.* a year. The extra depute is paid about 300*l.* odd.

60,220. In addition to those four Advocates Depute, are there any other appointments of a similar character depending on the tenure of office of the Lord Advocate?—The extra Advocate Depute, who is really a fifth depute, does his work in the Glasgow circuits exclusively; and then there is the Sheriff Court Depute, whom I mentioned as conducting prosecutions of an important character in the Sheriff Court, where it is thought desirable—I will not say to supersede the Procurator Fiscal, but where it is thought he should have skilled assistance.

60,221. Roughly speaking, how many officers will there be in that class whose tenure of office depends upon the length of tenure of office of the Lord Advocate?—I think I have mentioned them all. There is the Crown Agent also, and the legal secretary.

60,222. Are these Advocates Depute, who have held office during the time of a particular Lord Advocate, re-appointed by his successor?—I should think so. I cannot just at the moment remember what happens in such a case as you figure. I should think there is very little doubt about it, assuming that the successor were under the same administration.

60,223. But they are looked upon as part of political spoils that can be appropriated by a change of Party Government as the result of political services?—I am not sure that I should phrase it in the same way, but I do not know that we differ very much with regard to the substance of your question.

60,224. It is something on the American system of the spoils to the Party victors. Now about your clerks, of whom we have heard so much this morning and at other times. You had two clerks, I understood you to say, one who received a salary of 250*l.*, and one of 100*l.* The clerk who was last appointed, who was in receipt of 100*l.* a year, was fixed in Edinburgh?—Yes.

60,225. Did he for that salary of 100*l.* a year devote all his time to your service?—The system is this: A man who is appointed to my position has a clerk before he is appointed to my position. The duties of a clerk to a counsel at the Bar who has not an official position,

are purely with relation to his private practice. Mr. Smart looked after me in that capacity for over 20 years. Then, when I became Lord Advocate, I appointed him, as is always done, as clerk as Lord Advocate. That entails 100*l.* a year, in addition to anything which he might draw in respect of any private practice which I might continue to have. That is the position. Perhaps I should say to the Commission—you probably know it already—that these clerks are paid, not by the man to whom they are attached, so far as private practice is concerned, but by percentage on his fees; it is the privilege of the client to pay the clerk as well as the counsel whom he employs.

60,226. But I understood you to say that your private practice now, as Lord Advocate, was a negligible quantity?—It has vanished.

60,227. Then there would be a corresponding reduction in the remuneration of your clerk?—That is quite true.

60,228. I do not want to press the question unless you feel free to answer it, but would his total remuneration during the time he was acting as your clerk at 100*l.* a year be much in excess of that 100*l.* a year?—So far as I am concerned from private practice?

60,229. Yes?—I have no hesitation at all in answering the question. It would not be much in excess of 100*l.* a year, for the simple reason that nowadays, differing from past days, the holder of my office is bound really to spend nearly all his time in London when the Courts are sitting in Edinburgh. It did not use to be so, and one was entitled to practise at the Bar. But now—and I have no hesitation in saying it—any person who holds my office has really to abandon private practice.

60,230. Then your acceptance of the office of Lord Advocate would mean a serious reduction in the income of your clerk?—I have not worked it out.

60,231. Surely if he received fees from your income when he acted as your clerk in private practice, and these fees ceased when you became Lord Advocate, there must be some reduction in his income?—Oh, yes; I think that is perfectly obvious; but what I have in my mind is this: my experience has not been quite a normal one as a practising counsel at the Scotch Bar since I came into Parliament in 1910.

60,232. So that his reduction in fees began before you were appointed Lord Advocate?—Yes, four years before.

60,233. I do not want to cast any reflection upon the capacity of your late clerk, because I do not know the man at all; but it might strike one that a man who was 67 years of age, and who was in receipt of 100*l.* a year, had not been a very great success at the work in which he had been engaged the greater part of his life?—I think that is hardly a fair way of putting it, if I may suggest it. In the first place, he was not only in receipt of 100*l.* a year up to the time when abnormal circumstances resulted in a reduction in my practice; and in addition to that fact he had a great deal more than 100*l.* a year. You must remember that he was clerk to a number of other counsel also, from whom he drew a substantial income.

60,234. Did he continue to be clerk to those during the time he was acting as private clerk to the Lord Advocate?—Yes. These clerks have a dozen different men.

60,235. Then that rather answers a question I intended to put to you about the fate of the clerk of your predecessor. What became of him when you were appointed Lord Advocate and you found your own clerk to supersede him?—That is Mr. Ford, who is being referred to.

60,236. I do not know the name. Did he get the advantage of the traditional expectation of being appointed to a permanent Civil Service post?—At present he holds the office of Keeper of the Rolls. The clerk to a newly-appointed judge usually goes on the Bench with him, as we phrase it, in some capacity. Mr. Ford, who was clerk to Lord Strathclyde, is Keeper of the Rolls of the Court of Session.

60,237. I understood you to say, when the Chairman was putting questions to you about political influence

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in the making of appointments in the Scottish Legal Departments, that although you would not ignore political services, you considered it to be your duty to place the interests of the State paramount?—I think that is obviously the duty of the holder of my office.

60,238. Then really it could only be, one would think, in exceptional cases where you find a combination of the best man from the point of view of qualifications for the post to be filled and past political services, that your policy would be carried out, and that political service would count at all?—I agree. I think that is stating it quite fairly.

60,239. But still you do not deny that political services have, I do not say a determining influence, but, at any rate, an influence in the case of most of the legal appointments that have been made in Scotland?—I would not like to say that; I do not know. They may have in certain circumstances, but it would be quite impossible for me to give an affirmative answer to that question without having personal knowledge of the appointments to which you refer.

60,240. You referred to the hundreds of letters which you received in respect of any appointment about to be made?—Yes.

60,241. Are most of those letters urging the political services of the person on whose behalf they are written?—Many of them do.

60,242. That seems then to indicate that there is a very widespread impression that services rendered to a political party are likely, if not to result in some public appointment, at any rate to be considered in making a public appointment?—That may quite well be. I have heard it put in this way—and perhaps you have, too—that politicians on neither side would not get the services of such good agents and representatives in and about their constituencies as they do were it not that these agents and representatives expect that their claims will be considered if a suitable opportunity for promotion or appointment occurs. I have heard it put in that way often.

60,243. Might not the retort be made to that, that the State would be likely to get better public servants if there were not the practice of appointing men to those positions because of their party political services?—I do not agree with that. I think the State may get a better public servant from outside, although he is a politician, than by promoting a public servant who is inside.

60,244. But not because he has been a politician?—No, in spite of his being a politician.

60,245. Referring to the instance that you gave of the appointment of a man who happened to be of the opposite political party to the party then in power, that did not depend upon the patronage of the Lord Advocate. But can you call to mind a single instance where the Lord Advocate has exercised his patronage in favour of a man who had a reputation for services to the opposite political party?—It is difficult. I can only speak of my own experience with any value, and I would not like to mention names. In some of the appointments to which I have referred, and which I have made, it may be accurate to predicate certain services by the man whom I appointed to the opposite political party. I would not like to mention names, because I do not know of them sufficiently intimately; but I will say, with regard to certain appointments that I have made and to which I have referred, that to the best of my judgment the persons whom I appointed had been, when in politics, of the opposite view from mine.

60,246. Would you be prepared to subscribe to this opinion, that during the tenure of office of, say, a Liberal Government, the most eligible man for a public appointment is invariably Liberal, and that during the tenure of office of a Conservative Government the most efficient man invariably belongs to the party which is in power?—No, I would not subscribe to that. I think it is putting it too widely. I do not agree with “invariably.”

60,247. But is not that the practice?—Not my practice.

60,248. I asked you if you could furnish a single case where a man had been appointed because he was

the most suitable man for the post and he happened to be of a different political party?—I have given examples of Procurators Fiscal whom I promoted, who were appointed.

60,249. That is not a case of appointment but of promotion?—It is an appointment from inside. Does your question relate to appointments from outside?

60,250. Yes, from outside. Is it a condition that, say, a Sheriff or a Procurator Fiscal shall not take part in politics after his appointment?—It is not made an express condition so far as I know, but in both cases that tradition is honourably observed—or in most cases it is.

60,251. Referring to two of the appointments which you made—the one to Wick and the other to Portree—the appointment you made at Wick was of your former election agent. He does not continue to hold that post now, I suppose?—Certainly not.

60,252. In the case of Portree, does the Procurator Fiscal take no part in politics?—Certainly not. That is understood; the principle is implicitly observed by Procurators Fiscal up and down Scotland.

60,253. And by the Sheriffs also, or the Sheriffs Substitute?—I would not like to offer any observations on Sheriffs Substitute or Sheriffs.

60,254. They come within your purview?—I recommend, certainly. I will put it in this way. It is an understood thing in all these offices that when a man is appointed to his office, be it Sheriff or Procurator Fiscal, or any other office of the same kind, he ceases to take an active part in politics.

60,255. (*Sir George Paul.*) I think it is the case that if a Sheriff wishes to stand for Parliament he resigns his office as Sheriff?—Yes, that has happened on several occasions.

60,256. (*Mr. Philip Snowden.*) Should I correctly represent your views on the question of appointments and patronage if I were to say that you believe that the public service can be best served by retaining the patronage in the hands of the Lord Advocate without any control except the criticism of public opinion of the profession and of Parliament?—I think that fairly represents my view.

60,257. You are aware, of course, that most of the appointments in the Civil Service are filled by means of a system of open competition?—Yes.

60,258. And you are aware, too, that formerly the system of personal patronage was universal in making appointments to the Civil Service?—I have heard it so stated.

60,259. You are aware, I suppose, also, of the reasons which brought about the change?—I cannot profess any intimate acquaintanceship with them.

60,260. That was because of the abuses to which the system of unlimited patronage was liable?—I will take that from you. I will assume it; I do not know it.

60,261. Is there any reason why the abuses which made the system so notoriously objectionable should be entirely absent from patronage when it is exercised in regard to legal appointments?—I do not know about the reason of it.

60,262. Can you draw any distinction?—Probably one reason is that so far as the holder of my office is concerned, he is a man, as a rule, whose fairness and discretion can be trusted, and who may be trusted not to indulge in the abuses to which you have referred. I know of none which have occurred in the history of my office.

60,263. You would imagine that that would be precisely the answer given by those who enjoyed the patronage in the old days?—Yes, but the difference seems to me to be that there were abuses, and we have not been pointed to any in the case of the holders of my office. That seems a substantial difference.

60,264. Now I want to go back again to the case of your clerk who was appointed to this post at 67 years of age. In reply to the Chairman you expressed the view that you considered it to be desirable that a public servant should retire at 65 or 70 years of age?—65 or 70, yes. I did not commit myself to 65 or 70.

60,265. If it be desirable that a person should retire at 65, is it a desirable thing that he should first be

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appointed to a post in the public service at 67?—No, I think that follows. I think the question, if I may say so, answers itself; but then I did not commit myself to the age of 65, and I said that in many cases of which I was aware, great hardship resulted in Scotland, and, I doubted not elsewhere, from compelling resignations at 65; although I quite recognise that as a relative matter, it may be necessary to impose a restriction which works hardly in particular cases.

60,266. Was it a condition of his appointment that he should retire at 70?—Yes.

60,267. And can that condition be enforced?—I cannot remember the terms. I imagine it can. I do not think there will be any necessity to endeavour to do so, but it was quite an understood thing.

60,268. But you are not quite sure that it could be enforced?—I presume it can—probably by petition to the Court. I am not aware that in any case it has been necessary to resort to that expedient. I do not doubt that it can be enforced.

60,269. But supposing when a man gets to 70 years of age he does not voluntarily resign, what action will have to be taken to compel him to do so?—You mean supposing there was in his commission a condition that he should resign at 70? I do not know of a case which has occurred.

60,270. We heard yesterday of the case of a man who was at any rate considerably above 70 years of age, and it had been understood that he was to retire at 70 years of age. He is now 75?—That is Mr. Whyte.

60,271. No steps appear to have been taken to enforce that?—Of course, that is rather outside my sphere, but I believe that has been treated as a very special case, a case where Mr. Whyte had given very long and efficient public service, and is still an efficient public servant. I very much doubt whether there is anything in the terms of Mr. Whyte's appointment to the effect that he should retire at 70; but I do not know. In answer to your question as you have put it, I think there is no doubt that if in the commission of a public servant it were stipulated that he should retire at 70 and he did not, a civil action could be brought in the courts to bring about his retirement.

60,272. (*Sir George Paul.*) Mr. Whyte was appointed by the Principal Extractor, and he does not hold his appointment except from the Principal Extractor, and that, I think, was his answer?—I do not suppose there is anything about the age of 70 in his appointment. It is quite beyond my sphere.

60,273. (*Mr. Philip Snowden.*) I am not putting your view unfairly when I say that you have admitted that there is a considerable amount of political pressure brought to bear on the Lord Advocate in the making of these appointments?—I think that is quite accurate.

60,274. Do you think it would be desirable, therefore, in the interest of the Lord Advocate that he should be relieved in some way from this political pressure?—I do not think so. It does not incommode me in the least.

60,275. You enjoy the pressure?—I do not enjoy it, but it does not distress me. It is very interesting.

60,276. Then we may take it, from all you have said to us this morning, that apart from a few suggestions you have made, one being with regard to pensions, and another with regard to the age of retirement, you consider with regard to the present system—I will not say that it is incapable of improvement, but at any rate it is undesirable that it should be improved or changed in any respect?—I put it in this way: that there is no better substitute of which I have heard, or which has come under my personal notice. I have not had the advantage of reading all the evidence before this Commission, or I might have to alter that reply. I know of no better substitute for the present system, which, in my judgment and experience has worked, if I may say so, well.

60,277. I, of course, would be far from casting the slightest reflection upon any holder of the position of Lord Advocate, but still, in order to safeguard the public from the possibility of a Lord Advocate abusing his position, you do not think it desirable that the powers of his patronage should be limited in any way?—I do not, and for the best of reasons, that in the long

line of holders of my office I do not know of any such instance.

60,278. (*Mr. Graham Wallas.*) You have large general responsibility for the administration and discipline of the Scottish Legal Departments?—Certainly so far as the criminal administration is concerned I have full control.

60,279. But with regard to the administration, for instance, of the Court of Session, your power varies curiously from section to section?—With regard to the Court of Session, yes; I do not know that I have very great disciplinary power there, if any.

60,280. Would you think it desirable that your administrative responsibility should be cleared up and enlarged and that you should be put more in the position of a minister who is responsible for all disciplinary powers in the department over which he presides?—I do not quite follow the question. There is the Court of Session (the Civil Department), the Court of Justiciary (the Criminal Department), and departments outside.

60,281. Take for a moment the Edinburgh departments—the civil courts of the Court of Session; each man who has appeared before us who is at the head of a special section has claimed that he has at present a large measure of responsibility, and, I think it is clear, of independence, and that that degree of independence varies in the various sections of the Court of Session?—Yes.

60,282. Do not you think it might be a good deal simplified and that the holder of your office might be put more in the position of a Minister who is generally responsible for the conduct and discipline of his office?—I should doubt very much, if you add the responsibility for the administration of the Court of Session to the duties of the Lord Advocate, whether it would be a useful innovation, because it would be an innovation. At present I have no responsibility for civil administration in Scotland at all; my duties are confined to the criminal administration.

60,283. In the civil administration you have the patronage, but nothing else?—The patronage, but no disciplinary powers whatever, so far as I know.

60,284. You have no disciplinary control over the people you appoint?—I think not.

60,285. (*Sir George Paul.*) I think, under the Act of 1889, the general supervision is vested in the Principal Clerk of Session, subject to the ruling of the Lord President?—I am obliged. That is so. So far as the clerks in the Court of Session are concerned, they are all under Mr. Adam.

60,286. (*Mr. Graham Wallas.*) Do not you think the power of appointment and discipline should normally in a department be in the same hands?—Of course, really, I have not the power of appointment in many of these cases. I merely recommend.

60,287. But your recommendation is by custom followed?—I am not aware that it has ever been disregarded.

60,288. You said it was desirable that the Crown Agent should give his whole time in future to the office?—On the assumption that the scope of his duties were enlarged.

60,289. The scope of his duties enlarged so as to cover all the normal legal work of most of the Edinburgh departments?—Of the London Government Departments I meant to suggest.

60,290. Do you think a corresponding change might be made in the position of the Procurator Fiscal—that he should take the ordinary prosecuting work under the District Committee, the Parish Council, or the School Board, in their administration?—I think that would require very serious consideration, because many of the Procurators Fiscal at the present time have their full time and attention occupied with their official duties of a criminal character. I think it would overload many Procurators Fiscal whom I know of if you were to put these duties upon them, and would involve a corresponding increase of salary, I think.

60,291. But from the point of view of the local authorities, if they could get their work of prosecuting under the Education Acts, the Public Health Acts, and so on, done by one official, it would amount to a considerable saving?—I suppose it might.

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60,292. And in many cases it would transform the work of a Procurator Fiscal, which is insufficient to take up the full time of an official, into a day's work which would be sufficient?—There are certainly cases in which the Procurators Fiscal are not overworked; but there are many in which they are.

60,293. Where they are not overworked that change might be desirable, you think?—It might work well. It would require very careful consideration and possible readjustment of salary.

60,294. You told us that in appointing Procurators Fiscal from outside you consider each case on its merits?—Yes, each case according to its own circumstances.

60,295. You have made two appointments of Procurators Fiscal from outside otherwise than by promotion, and they both have been paid political agents?—They have.

60,296. One of them being the political agent whom you, as a candidate, used to pay?—That is so. I so stated.

60,297. You have also made certain appointments, or recommended certain appointments from outside, of Sheriff Clerks?—Yes.

60,298. Could you tell us the character of the appointments, not by promotion but from outside—whether they have had the same political character?—Only two outside appointments. We discussed my own clerk, and you know all about that.

60,299. He was appointed in the Sessions House?—In the Court of Session, yes.

60,300. I am referring now to the Sheriff Clerks?—I have appointed two; the one was in Midlothian, where I promoted the Sheriff Clerk Depute.

60,301. I want to exclude that from my question?—I am going to give the only two appointments I made, in order to prove my point, if I may be allowed. The one was Mr. Harrison, the Sheriff Clerk Depute, whom I promoted, and the other was Mr. Ritchie, in Perth, who was a solicitor, and who was also, I believe, a Liberal agent.

60,302. Then your appointments of Sheriff Clerks have consisted of one appointment by promotion and one appointment of a Liberal agent from outside?—Yes.

60,303. So all three appointments you have made from outside have been of paid Liberal agents?—That is so.

60,304. You told us that no candidate in Scotland could get so good a political agent so cheaply if it were not that this expectation existed?—I do not recognise my statement in that disguise. I think what I did say, if I may remind you, was, that I have heard it said by candidates that they could not get such good men to act for them were it not that these men look forward to a time when they might have their claims considered. May I add that in the case of Mr. Ritchie in Perth I have been assured from all quarters on both sides of politics that a more excellent appointment could not be made. I do not say that from my point of view, but from the point of view of Mr. Ritchie. I think it is fair to say it.

60,305. You have told us that this goes on under the wholesome check of professional opinion?—That is one check.

60,306. And that there has hitherto been a complete absence of any professional challenge on the point?—I have had none.

60,307. I want to read to you two or three sentences from what seems to me to constitute responsible professional opinion upon the matter. The first is Mr. James H. Jamieson, who told us he was appointed to give evidence on behalf of the Society of Writers to the Signet. He said, when asked about political appointments, "I think that the public do not get the 'best service'—and when asked 'The system that you deprecate is the political element, which you tell 'us exists too much?'" he answered, "Yes." The next is Dr. David Murray, who gave evidence on behalf of the Faculty of Procurators, and he stated: "The view 'that because a man has been a political agent of some 'important person he should therefore be appointed 'to an office in the Register House, is entirely out of

"date, and I do not think that anyone would be found 'to uphold it now.' He further said: "I think the "legal profession in Scotland is all against it." Then comes Mr. Boyd Anderson, who gave evidence on behalf of the Incorporated Society of Law Agents in Scotland, and he told us that the general opinion of the profession was against political appointments to administrative posts. Then comes Mr. Walter James Lewis, who stated that he gave evidence on behalf of the Society of Solicitors in the Supreme Courts in Scotland, and he said, when asked about political appointments, that the system should be absolutely done away with as far as possible, and for that purpose he proposed a standing committee of appointment. Lord Salvesen told us: "I do not like political appointments "if you can substitute something better than the system that we have at present." Lord Salvesen's statement is subject to "if you can substitute something better", but the other statements are absolute. They do represent a not unimportant body of professional opinion against the system which now exists?—I have the greatest respect for the gentlemen whom you have referred to; I know them all, I think; but I am bound to say that I think their evidence would have been much more helpful and valuable if they had given examples of any appointments which they deprecate. It might be invidious, but I think it is quite necessary; general sweeping statements of that sort neither assist a Commission nor a Lord Advocate.

60,308. You appointed Mr. Andrew Harrison by the exceptional course of promotion to be Sheriff Clerk of Midlothian?—I deprecate the use of the word "exceptional."

60,309. And you did so because you trusted his judgment?—I did so because I thought he was a very good man for the post.

60,310. When he was asked about the appointment of political agents, he said, as a rule, the person appointed is not a good lawyer or a good politician, and added "they are just adventurers." Does that opinion weigh with you at all?—I do not agree with it.

60,311. Would you agree that in considering the effect of a system of this kind one has to consider its influence on the whole political system of the country, and not merely on the efficiency of the particular person appointed?—If by that question you mean that the public interest ought to be paramount, I should not dissent.

60,312. But the public interest includes the reaction of the system upon the general life of the country, does it not?—I suppose so.

60,313. And you would agree that, for instance, in the Colonies in some cases, and in America, the reaction upon the general political life of the country of a spoils system has been bad?—I should be agreeing with a proposition of which I have really no intimate knowledge if I said so.

60,314. Would you say, at any rate, that if the system tended to create what Mr. Harrison called political adventurers, it would be a bad system, putting aside any other question?—I think any system which tends to create political adventurers is a bad system.

60,315. Referring for a moment to the appointments made in discharge of personal obligations rather than political obligations, you feel that your appointment of Mr. John Smart last December did not go in any sense contrary to the opinion of the profession?—I think it was conforming to tradition, and also it gave satisfaction to the profession.

60,316. Lord Salvesen, in the précis which he submitted to us, said: "No Lord Advocate of my acquaintance would care to risk his reputation in order to 'perpetrate what the profession would regard as a job 'appointment'?"—I respectfully agree.

60,317. This appointment was pointed out to him, and he said: "I think that was very exceptional. I "may explain that I had not that case in my mind at "all when I wrote that précis?"—But did not Lord Salvesen add that he had reason to think that Mr. Smart was an efficient public servant? I think it is only fair to Lord Salvesen and to Mr. Smart to add that. I did not read it myself but it was pointed out to me.

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60,318. No; the answer to the question was this: the age was called to his attention, and the question was, "The age in this case was manifest enough." The answer is: "Oh, yes; I think it was very exceptional. I may explain that I had not that case in my mind at all when I wrote that précis. I was thinking more of the higher appointments such as the judicial appointments in the Supreme Court?"—Yes, it is in another part.

60,319. Yes, two questions before. I think what you are referring to is the statement in Question 59,039?—I think that is it. He says: "I believe he is thoroughly qualified for his duties."

60,320. But he stated that he thought that that appointment was exceptional and he had not that appointment in his mind when he spoke so?—That is highly probable.

60,321. Sir Kenneth Mackenzie had his attention called to that, and he said: "I am not saying that the appointment of a man at the age of 67 is defensible in my humble opinion." Those two opinions are opinions of great weight, are they not?—I have the highest respect for both, and I do not dissent from Lord Salvesen's opinion for a moment. I agree that it is an exceptional case; but, on the other hand, some men are more robust, both mentally and physically, at 67 than others.

60,322. Supposing this Commission were to desire to create a change of tradition both with regard to political appointments and what we have called appointments on personal claims, can you suggest any change of machinery by which that could be carried out?—I cannot.

60,323. You think the Commission is entirely helpless, and that nothing it could recommend in that way would have any effect?—I do not presume to say that for a moment. All I do say is that no alternative system occurs to me.

60,324. You say you are not familiar with the efforts that have been made in the Colonies and in America, or in other departments in England?—I am afraid not. That is where the Commission has an advantage.

60,325. At present we are under a Coalition Government?—Yes.

60,326. You have been very frank in telling us the principles on which you acted under the old Government. May I say that you propose to act exactly on the same principles under the new Government?—That is a question which I should prefer not to answer for more than one reason. The principles on which one may act under the present administration may be different—I do not know. I have not had occasion to apply my mind to that subject up till now.

60,327. May I ask you whether you would recognise this distinction, that appointments to these offices may either be non-party—that is to say, that a man is appointed without reference to any particular political service he may have rendered, or they may be what the Americans call bi-party—that is to say, he may be appointed for services rendered either to one party or to the other party, and possibly in alternation. You would recognise that the two principles are different?—Yes, I suppose so.

60,328. Could you tell the Commission whether you yourself have any preference as between a bi-party system under a Coalition Government and a non-party system?—I should prefer not to offer any observations as to procedure under a Coalition Government. It is a novelty.

The Right Hon. CHARLES SCOTT-DICKSON, K.C., M.P. (Dean of the Faculty of Advocates), called and examined.

60,340. (Chairman.) You are Dean of the Faculty of Advocates?—I am.

60,341. What legal offices have you held?—I served my apprenticeship as a law agent, and was passed as a law agent in 1874, and I acted as such for two years. I was admitted as an advocate in 1877. I succeeded Lord Dunedin as Senior Advocate Depute in 1892, and acted as such until 1895. I succeeded Lord Dunedin

60,329. (Sir Donald MacAlister.) When you appointed your clerk to this post, I presume you appointed another clerk to take his place?—Yes, I did.

60,330. Would he have the same traditional claim for a vacancy if it occurs?—I do not know. The Lord Advocate's clerk, as I say, has been singled out by precedent and the recommendation of a committee for preferential treatment. I must leave it there, I am afraid.

60,331. I wanted to know whether the term "Lord Advocate's clerk" applied only to one who had served the Lord Advocate in his private capacity before he was appointed, or whether it applied to all that clerk's successors appointed during the tenure of office of the Lord Advocate?—I am not aware. There may have been such a case where two successive holders of that office have both secured promotion under the same régime, but I do not remember one.

60,332. If there happens to be a series of vacancies during your tenure of office, the question will have to be considered a number of times as successive clerks are appointed?—Yes; no doubt they would be considered on their merits, but I should not like to say anything about the prospects of success of such clerks.

60,333. (Sir John Kempe.) With regard to your proposal about the Crown Office, and the concentration of the legal work of the different departments there, I think you said you proposed to except those departments where there is a Central Office for the whole kingdom in London; that is to say, the Customs and Inland Revenue would be excepted, and, I suppose, the Post Office?—The Post Office at present has a solicitor in Scotland, in Edinburgh, and my suggestion would include the incorporation of the Post Office with the Crown Office work as well as the work of the Board of Trade, the War Office, and so on.

60,334. But both the Customs and Inland Revenue have agents in Scotland in the same way?—The Inland Revenue Office in Edinburgh is a permanent institution run simply and solely for the purposes of the Inland Revenue, with a permanent head who devotes his whole time to that particular work; whereas, in all the other Government departments, so far as Edinburgh is concerned, the Government work is simply an incident in the conduct of professional business.

60,335. The Inland Revenue have a Government office there?—Yes.

60,336. (Sir George Paul.) He, in point of fact, is not a solicitor at all, but an advocate?—That is quite true. I was junior counsel to the Inland Revenue, so I know a little about that particular office.

60,337. (Sir John Kempe.) Then it is not the same with the Customs, because they have an agent?—I think they have an agent.

60,338. I thought there was also an agent for the Inland Revenue. In the Law Charges Vote, under "Clerks to Advocates Depute," there are four clerks, and the Note says that three of those clerkships are held by the same person, who is also in receipt of an annuity out of the Consolidated Fund of 100*l.* a year as a late judge's clerk. Can you explain that?—If my attention had been drawn to it sooner I should have inquired; but I suppose it means what it says, that three of the holders of the particular office happen to have the same clerk—I mean the clerks in the Parliament House, as I endeavoured to explain, serve a number of different counsel, and I suppose it so chances that this particular clerk is fortunate enough to have as his employers three of the Advocates Depute.

60,339. Then the Note should have been put the other way?—I agree; it would have been more accurate.

as Solicitor-General in 1896 and acted until 1903, during which time I was a member, under the Act of that time, of the Local Government Board in Scotland. I succeeded Lord Dunedin in 1903 as Lord Advocate, and acted as such until 1905. I was appointed Dean in 1908. I never was a Sheriff and, of course, I never was, as Lord Dunedin was, the Secretary for Scotland. My period of office as Lord Advocate was very much

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shorter than his was, because all the time I was Solicitor-General he was Lord Advocate; but we were in close touch during the whole of that time so far as appointments were concerned. I do not think he made any, as Lord Advocate, that he did not consult with me and with others about.

60,342. As you are aware, the Commission are at present dealing with the legal offices generally in Scotland?—That is why I explained that I have not such a wide experience as Lord Dunedin, because he had been Sheriff, which I never was, and he was Lord Advocate for a much longer period than I was; and then, of course, he was also Secretary for Scotland, which I never was.

60,343. The first point to which we would ask you to turn your attention is the question of the system of appointment to legal posts, both those in the departments in Edinburgh and those in the local services, and particularly the Sheriff Clerks and the Procurators Fiscal?—I cannot speak from personal experience as to the local services, except that I know that so far as they are under the control of the Crown, and, therefore, the patronage is exercised by the Lord Advocate, they have been in the main, I think, political. That applies also to those in the Court of Session and the various departments connected with that—that, generally speaking, they have been political.

60,344. That is a question of principle which has occupied the attention of the Commission, whether the political system of appointment to which you refer is desirable, and if it is not desirable, what alternative could be introduced?—Of course I think, frankly, that on principle it is not defensible, because the appointments are not political so far as their duties are concerned. On the other hand, I am bound to say that I think it works out in practice quite well, and that I do not think that the come and go of the parties works out unfairly politically. I do not say it is universal, though as a rule the party who are in office appoint men of their own political colour; but there is a constant change, and I think in the end both sides get a fair representation. I think also that the men who are selected, even though they are selected because of their political feelings, are always men of position, character, and capacity; so I do not think the public service suffers from that, though I agree on principle that I do not think it is defensible.

60,345. It has this defect, has it not, that persons of the legal profession who have not taken any active part in politics on either side are practically debarred from legal appointments?—That is so. On the other hand, the members of the legal profession—I do not care which side of politics they belong to—who take part in politics, are generally men of capacity and ability to discharge any duties that they are called on to perform. I do not think in that respect there is any difference between the two sides.

60,346. You think the system is not open to criticism based on the character of the appointments made or the capacity of the persons appointed?—I am sure it is not, because whatever the party in power at the time, the Lord Advocate, who in the main has the ultimate disposal of most of the offices, regards it as essential that the man whom he appoints should be a man fitted for the post.

60,347. It has also been argued that, from the point of view both of politics and of the legal profession, it is undesirable that services of that kind should be the regular road to preferment?—I agree. I think on principle that that criticism is quite sound; but, on the other hand, I do not think, in practical working out, it in any way interferes with getting men who are capable of doing the work, and also it does not interfere with there being really a fair distribution between the two political parties of offices of that kind. You do not find—I do not care whether it is in Edinburgh or Glasgow or the larger centres of the country—that the legal practitioner who is associating himself with politics is otherwise than a perfectly capable and thoroughly straightforward man. That is my view about it.

60,348. The system has also been criticised by some witnesses on the ground that it involves frequent appointments from outside to the higher posts in the legal

service, and that that is discouraging, and has a bad effect on the junior members?—I think that used to be more than it is now. I think more and more it has been recognised on both sides that as far as possible there should be promotion—that men should be promoted even up to the higher offices. I agree that that is not always followed out; but even when you bring in an outside man he is a man who is generally of such position and character that no wrong is done to the actual work; also I am not sure that, having regard to the qualifications and emoluments in some of the offices, you could always find a man who had been in a subordinate position who was fitted to take the head of the department.

60,349. Would you agree with the view that where there is already in an office or in the Service a man possessing the necessary qualifications for the higher posts, he should normally be appointed?—Unquestionably.

60,350. It would clearly be very discouraging to the junior man in the office if the higher posts were always filled from the outside?—I have no doubt about it. I have been for 20 years associated more or less with it, not myself as exercising patronage but knowing what was done, and I think the effort should be to encourage the view that the man who was faithful in small things should have a chance of being promoted to discharge his duties even up to the head of the department.

60,351. We heard from the Lord Advocate this morning that he had personally carried out that view to a considerable extent in the appointments that he had made to the posts of Procurators Fiscal and Sheriff Clerks?—I had only some two years' experience as Lord Advocate, but I know for the last 20 years it has been the view of the Lord Advocate that as far as possible the practice should be to promote the official from one position to a higher or a better paid position. It is not confined merely to officials such as this Commission, I understand, is concerned with, but even taking Sheriff Substitutes, that has been altered lately so far as the minimum salary has been raised, but the idea always was to give a man a better place if he showed capacity. It applies, for example, not only to the Sheriff Substitutes but to Procurators Fiscal and to various officials whom I am speaking of, so far as the present Commission is concerned.

60,352. Our attention has also been called to the frequency with which Lord Advocates' clerks have been appointed to clerkships in the Court of Session office. That system has been criticised on the same grounds?—I have to plead guilty, if that be the proper term, that when I was Lord Advocate there was one of these clerkships that fell vacant, and at that time it was a matter of course that the Lord Advocate's clerk got it. On the other hand, I am not sure that the fact of describing him as the Lord Advocate's clerk just adequately pictures what he really has to do. He does not get that appointment, so far as my experience goes, without being a man of considerable capacity.

60,353. He would usually be the clerk who has served the Lord Advocate before he assumed office?—He would be. In my own case that was not so. My present clerk was taken from one of the offices in Dover House, and I should think latterly his capacity for acting as a clerk brought him a great deal larger emolument from his engagements to other counsel than it did from being clerk to me. I am not speaking only of my own clerks—the two only that I have had as Lord Advocate—but from my knowledge of other Lord Advocates' clerks, they need to be men of considerable capacity apart from the mere fact that they are clerks to eminent counsel, as the Lord Advocate always is.

60,354. Would you agree that that system is open to criticism on the ground of its effect on the Service generally?—Except that it has been absolutely recognised from, I think I may say, time immemorial, that the Lord Advocate's clerk was always entitled to get one of these jobs—I do not use the term “job” in an opprobrious sense.

60,355. Speaking generally, I gather you are of opinion that where there are suitable men already in the Service, the system of promotion from below should be applied, and that it should be definitely accepted as

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a principle that that system should be extended?—Absolutely.

60,356. Supposing there are cases where there is no suitable person eligible for promotion, and appointment has to be made from outside, does it necessarily follow that the selection must be made on political grounds?—No, I think it does not necessarily follow. On the other hand, I think there is great difficulty—and I have considered it quite carefully—in putting the responsibility of the selection upon another than the Lord Advocate. He is responsible to Parliament, and he is responsible to the profession, and I think there would be a very very serious difficulty in divesting him of the patronage and of the responsibility that that involves. So far as my personal experience is concerned I would be thankful to be relieved of it, but I think there would be a great deal of difficulty in getting a man or a body of men who could be as amenable to public and professional criticism, and also who would realise their duties to the profession and to the office, as you would find in the Lord Advocate.

60,357. Then your opinion would be in favour of leaving the appointments with the Lord Advocate?—It would. I quite realise, of course, that in saying that, probably in most cases—I do not say in all cases; I know instances on both sides—it would be what is called a political appointment, and the gentleman selected would have the same colour in politics as the Lord Advocate. Still, even with that, I would far rather trust to the Lord Advocate—I do not care which side he is on—with those safeguards I have referred to, namely, his feeling of responsibility to his office, to the profession, to the public service, and to Parliament, than interfere with it.

60,358. You would not be in favour of assisting him in his choice by any permanent committee of recommendation?—I would not. I am only entitled to speak vicariously of Lord Dunedin's mode of exercising his patronage, but I knew it pretty intimately; and in the short time I was Lord Advocate, I know what I did. You consult people in the neighbourhood of the officials, or people connected with the Court of Session, or whatever the department was, as to the various candidates, and, under the sense of responsibility I have referred to, you endeavour to get the best man you can.

60,359. The extent to which any particular Lord Advocate would observe the principle of promotion of which you have spoken, would depend entirely on his own personal views?—It would, and quite frankly there have been instances where the system of promotion has been disregarded. There have been exceptional cases where that has not been followed out. Then the difficulty it seems to me would be in laying down a hard and fast rule that you were to have promotion absolutely by seniority.

60,360. It would clearly be inadvisable to lay down a hard and fast rule of that kind, because it might produce very unsuitable appointments?—I do not want to speak evil of dignitaries, but I might illustrate it in this way: take the English Judicial Bench; promotion there does not depend upon seniority. With us in Scotland, apart from the two chairs, it does. Each judge just goes up from being what we call Junior Lord Ordinary (which corresponds to being Junior Puisne Judge) in the Outer House to a seat in the Inner House. On the English Bench a man may be selected from a Puisne Judge and be put in any position on the judicial bench which those charged with the patronage think proper.

60,361. Turning from the general questions to matters affecting particular offices or groups of offices, the suggestion has been made in evidence that there would be very great advantage if the offices of the Court of Session were transferred from the Register House to the Parliament House or its immediate neighbourhood. Are you prepared to express an opinion on that?—That is a matter that I think the other branches of the profession—the agents' branch, if I may so speak of them—would be better able to speak of, because it does not come before us as counsel so much. It is a matter of practical convenience. I do not know whether it would be more convenient to have

the offices up near the court, or to have them down at the Register House. After 4 o'clock the Parliament House is a good distance away from the solicitors' offices, or a good deal further away from most of them than the Register House. That however, is a matter of agents' business, and I am not prepared to express an opinion that is worth considering compared with what the members of the other branch of the profession would say to it.

60,362. So far as the business of the courts is concerned, would not there be great advantages in having the offices close at hand?—I think not, myself. Speaking of it from a practising advocate's point of view, I do not think it matters very much to us, because the process is all there and can be had for the actual causes in court. I really do not think I am able to give the Commission any useful information on that matter compared with what could be got from the solicitors.

60,363. (Sir George Paul.) It is said that productions in the process very often suffer from having to be carried backwards and forwards from the Register House to the Parliament House every day?—You would have to cart them from the court to some other place in the building, and I have never known any case where there was any trouble that arose about that. It would not be in the actual transit. It does not matter very much whether you carry it from Room A to Room B in one building, or from Room A in one building to Room B in another building.

60,364. It is said that they are put into a barrow and wheeled up, and productions may be knocked about. I have no personal experience, but that is what we have been told?—All I can say is, that I have been at the Bar for nearly 38 years and I have never known of a case where a production was so knocked about that it at all interfered with the conduct of the business.

60,365. (Chairman.) In another branch of the office—the Crown Office—the question has been raised whether the Crown Agent is a necessary appointment or whether it could be dispensed with. In that connection the Lord Advocate told us this morning that, in his opinion, the office was necessary, but that its functions might with advantage be extended, and that the Crown Agent might take charge of the civil legal business of the various Government departments concerned with Scotland. That system should take the place of the present system under which the different departments have their own private law agents, and in that case he suggested that the Crown Agent should cease to be a political appointment and should be a permanent appointment, the Crown Agent giving his whole time to those duties. Have you ever considered a scheme of that kind?—The latter part, I confess, I had not considered before. I have no doubt myself that, so far as the Crown Agent is concerned, who at present really practically only attends to the criminal work, that is essential. There must be an agent of that kind to attend to the ordinary agents' business in connection with criminal work. I had a good deal of experience, taking both my Solicitor-Generalship and my Lord Advocateship, and I may say that when I was solicitor, the Lord Advocate of the day, Lord Dunedin, practically left me in charge—he was in Parliament and I was not for most of the time—of the criminal work; and I think it is essential that there must be an agent to attend to the solicitor's duty, so far as criminal work is concerned. I found also many times, and I have no doubt other Lord Advocates have found the same, that the sound sense and judgment of a man of experience, though he was an agent and not counsel, was of immense importance in carrying on the criminal business. Of course, as the Commission are aware, in Scotland practically no private prosecutions are allowed at all in matters of any importance. From time to time there came up questions of policy and discretion, where the Crown Agent's advice in consultation with him was of immense importance. As to making a Crown Agent responsible for all the Government departments, or, as the Lord Advocate said, that there should be an agent to do the whole thing, I have never heard it suggested until now. Of course that could be done, but it would involve a very great change, and I

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hesitate to express an opinion on what is to me a new idea. I think at present, probably the State is better served by having solicitors for each department than it would be by having one solicitor who was to attend to all the departments. There are the War Office, the Board of Trade, the Post Office, the Customs and Excise, and all the rest who at present have separate agents for each department, and to my mind, approaching it for the first time, I think I should prefer the present system rather than have as Agent of the Crown a solicitor who was to attend to all business, both civil and criminal.

60,366. The suggestion was that there would be not only greater convenience and efficiency but also economy in concentrating the functions in that way?—It would come to this. I think if an agent were appointed to attend to all the Crown business, of course he would have to have a very much larger staff. I suppose they are paid in the ordinary way by fees, some perhaps by salaries; but you would need certainly to get a man of the first standing, and you would need to give him a salary proportionately large as he would have to give his whole time to it.

60,367. It would no doubt require an increase in the staff of the office?—You would really have to have a Crown Solicitor's office with all these various departments brought into it, and the expense of that office, of course, would be very much larger than the expense of the single offices that at present exist.

60,368. But the aggregate expense need not necessarily be larger than the aggregate expense of the separate offices?—I quite agree, but I confess I do not think I am able to express any opinion to the Commission that would be useful on that point, because I have not heard it suggested before.

60,369. Would there not be this advantage, that the work of the different departments may in many points touch, and also that similar questions may arise in connection with different departments, and there would obviously be inconvenience if you had varying advice given to different departments on similar points?—I do not think that would apply in Scotland, because, differing from what is the course in England, the Lord Advocate and the Solicitor-General have to advise the Crown in all cases as part of their ordinary duties for the salaries they are paid. Differing from what happens in England, the Scotch law officers for their salaries—the Lord Advocate for his 5,000*l.*, and the Solicitor-General for his 2,000*l.*—have to conduct all cases, and to advise in all cases for the Crown, without any fees at all being given. Accordingly they are always consulted in those matters, and though the agents may be different, the ultimate advisers for the Crown are the same. If I were Lord Advocate or Solicitor-General, I might advise for the Customs to-day, for the Board of Trade to-morrow, the Post Office the next day, the War Office the next day, and accordingly in any question that comes up that is of importance at all and is put before the Crown counsel, he is the same man; while the solicitor instructing is different, the counsel advising is always the same. My own impression—but it really is only an impression, because I have not considered it—is that I would prefer the system of having separate solicitors, the counsel advising being always the same, subject always to this qualification, that the junior counsel, of course, differs, but the Lord Advocate and the Solicitor-General are always the senior counsel for all the departments.

60,370. Does the Crown Agent give any considerable amount of time to his official duties?—He is at his Crown Office every day for an hour or an hour and a half or two hours, and so on, taking the normal thing. Then when criminal trials are taken at the High Court he is there in constant attendance as the solicitor. Take a case which lasts for a week or so; the Crown Agent has to be there all the time in personal attendance. In my own experience I think the gentlemen who hold the position of Crown Agent are always gentlemen of high position, of great experience, and of great service on consultation with counsel.

60,371. Is there any necessity or advantage in the Crown Agent being a political office?—No, I think not.

I might qualify that by saying that there are questions of criminal prosecution which sometimes involve questions of political policy, and I am not sure that there are not cases where it would not be against the public service to have a Crown Agent with political views on certain questions and a Lord Advocate or Solicitor-General with political views differing from them.

60,372. I was contemplating the possibility of making the Crown Agent a non-political office altogether, as is the Solicitor to the Treasury in this country, or the Public Prosecutor in this country?—But I am afraid you cannot divest a man of that position from having political leanings one way or the other.

60,373. It has been found possible to do so in England?—I do not say it is impossible.

60,374. Has not it been found possible to do so in the non-political offices in Scotland?—I do not say it is impossible, but personally I can conceive cases—I have known them myself in my own experience—where I should prefer to have a Crown Agent who was of the same political views as myself.

60,375. You mentioned that your experience had not brought you so completely into contact with the local legal services?—No; I never was a Sheriff. I had a short experience as an agent practising in the Sheriff Court, but then it was so short that I could not claim to have any special knowledge about it.

60,376. As Lord Advocate you were in constant contact with the Procurators Fiscal?—Yes, and as Solicitor-General, too, when I was probably more intimately associated with the Procurators Fiscal than even the Lord Advocate was.

60,377. The question has been raised whether the restriction on private business should be applied to all Procurators Fiscal, or whether exception should be made in cases where the Procurator Fiscal's own work is not sufficient to fill his time?—I think it would be better if the Procurator Fiscal had enough work to render it unnecessary for him to have any private practice at all. But I am quite certain that there are a great many places in Scotland where you must have a man there, and where, if you confine him to Procurator Fiscal work, he would be idle for far the greater part of his time; and I think that is a bad thing. I think, in the country districts where, of course, it would only happen, it is far better to get a man of good standing, and, under the necessary qualifications, allow him to have private practice.

60,378. It would not be practicable, I suppose, to increase the districts in size, so as to give a whole-time job to each man?—I think, within limits, something could be done in that way; but then any abuse, or risk of abuse, on the part of the Procurator Fiscal who is in private practice misusing his office is, to my mind, removed by this fact, that he really acts under the instructions of Crown counsel. There are four Advocates Depute and the Solicitor-General, who is in command, and the Procurator Fiscal has to report any proceedings he proposes to take or any case he proposes to consider, and they would see that there was no impropriety in his conduct on these matters. I think it would cause considerably more expense if you were to insist on all Procurators Fiscal being Procurators Fiscal and nothing else, and doing no private practice. You would have to increase the payments, and, I think, what is even worse, the result would be that in many cases the men would not have enough to occupy themselves; they would have far too much idle time.

60,379. That, I suppose, is demoralising?—It is; or at least it is apt to be demoralising.

60,380. The remarks which you made about promotion by transfer would, I suppose, apply in the case of the service of Procurators Fiscal?—Yes, it is carried out regularly now. I think both sides have realised that where a man in a smaller office shows capacity, the opportunity of promoting him where he is to have more serious duties is quite aptly taken.

60,381. Would that apply also in the Sheriff Court services?—Yes, it would.

60,382. You would be able to promote deputes and Sheriff Clerks by transference to more important places?—Yes, I think, generally speaking, that that is

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a system which I would be entirely in favour of in all cases.

60,383. A recommendation was made by Lord Salvesen's Committee in favour of reducing the number of Sheriff Clerks, so that there would be one Sheriff Clerk for each sheriffdom, instead of, as at present, one for each county?—I would rather not express an opinion on that. I have never had the advantage of being Sheriff, and I think that is a question that the Sheriffs can give useful information to the Commission upon, and I cannot, because I have no personal experience.

60,384. One other point which has come before the Commission is the question of fixing an age limit for retirement in the legal departments. Such a limit is fixed in some cases by the warrant of appointment, and we have been told that where such limit has been fixed it generally has been 70. As you are aware, the limit in the Civil Service generally is 65, with power to extend the service in special cases to 70 as an extreme limit. Do you see any reason why the general Civil Service rule should not apply in the legal departments in Scotland?—Except for my own age, which makes me very diffident in expressing an opinion, I do not.

60,385. It has not been suggested that the same limit should apply to the judicial offices?—I am approaching 65 now, and have considerable hesitancy in fixing a limit. The question is quite a fair one to put, and, honestly speaking, I do not see any reason why, so far as an age limit is concerned, there should be a distinction, so far as these legal appointments are concerned, from those in the ordinary Civil Service.

60,386. At present a large number of the legal appointments, including some of quite minor importance, are direct Crown appointments. Do you see any reason why that system should be maintained?—That practically means that they are made by the Lord Advocate; I do not mean to say directly made, but he may nominate them through the Secretary for Scotland, or directly make them. Of course, I may be tinged with the official view, but my own impression is that the Lord Advocate is probably the better man to trust with the patronage than any other individual or body of men that you could get, just for the reasons I have already indicated, that he has the sense of responsibility of his office, of his duty to the Service, of criticism which would be applied so far as the profession is concerned, and also the fact that he is answerable in Parliament.

60,387. I asked that question, not so much from the point of view of the person by whom the nomination is made, which is a point you have already dealt with in the earlier part of your evidence, but rather from the point of view of the conditions of appointment. In the case of a direct Crown appointment, there is no necessity for the person appointed obtaining a Civil Service certificate, and he is therefore exempt from the scrutiny of the Civil Service Commissioners as regards health, as regards character, qualifications, age, and so forth, and also, unless it is fixed in his warrant of appointment, no limit of age applies?—Very often now, as the Commission I think have learned already, there is in the commission a limitation of age. So far as the other points you have referred to are concerned, I think the class of officials I am speaking of are not large enough, and also the divisions of the offices and the special requirements of the special offices are so many, that I doubt whether you could bring them into line with any general system such as prevails in the ordinary Civil Service. After all, we are dealing, so far as these offices are concerned, with a very small number of men; and the offices are so divergent in the training and duties they have to discharge, that I do not think you could get a co-ordination of them that would enable you to shift one man from one office to another office in such a way as to secure efficiency. I mean, the man in the Crown Office has one kind of duty to do, the man in the Justiciary Office has another, and the man in the Teinds Office has a third. To take a man from the Crown Office and put him in the Teinds Office would not be a bit of good, and yet he might be an excellent official in the Crown Office. In the same way, if you take a man from the Teinds Office and put

him into the Justiciary Office, he would not know in the least where he was, and his special gifts for the peculiar duties he has to perform would just be thrown away.

60,388. You mean that those reasons would render it impracticable to set up a uniform system of recruitment for all the offices?—I think so. By the time you take out the Bill Chamber which requires special training, the Crown Office which requires special training, the Justiciary Office which requires special training, and the Teinds Office which requires special training, the number of exceptions would exceed the rule. According to the best judgment I could give, I do not think you could co-ordinate the offices so that you could make the men in one office interchangeable with men in another.

60,389. Apart from any question of general co-ordination, the question remains as to what scrutiny is exercised over a person on his original appointment. In the case of a Crown appointment no such scrutiny is exercised. The fact that he has a warrant from the Crown entitles him to hold the appointment and entitles him to pension if it is a pensionable post, and so forth. But in case of appointments made, for instance, by the Secretary for Scotland, whether on his own choice or on the nomination of the Lord Advocate, the person appointed has to obtain, even if not appointed on a system of competitive examination or on any co-ordinated system, a Civil Service certificate, and to satisfy the Civil Service Commissioners as regards health, character, age, and so forth. Is there any reason, in the case of a number of minor appointments, for maintaining the direct Crown appointment which exempts him from that necessity?—Frankly, I think there is not. The only guarantee against any misuses is the sense of the responsibility in the officer who makes the appointment. I have been at the Bar now over 38 years and have more or less known about these appointments, and I suppose there have been cases, but I cannot call to mind any case where abuse has arisen.

60,390. But is it not rather anomalous for instance that the macers in the Court of Session should hold a direct Crown appointment?—Yes; and our trumpeters, who go round on circuit, I believe, get a commission from the Crown. The macers do not bulk very largely, there are only five or six.

60,391. That is perhaps the lowest of the appointments which are direct Crown appointments; but we have been told that a number of junior clerical appointments, even the assistant clerks in the Court of Session, are direct Crown appointments?—I think that is so. I think the Dean of Faculty is sometimes asked to give a recommendation for a macer, although he has nothing to do with the appointment.

60,392. (Mr. Matheson.) You said that in principle you thought political appointments were not desirable, but you did not see any practical way of dispensing with that method. What reason do you think there is for saying that an advisory committee would not strengthen the position of the Lord Advocate and to some extent put him outside the region of political appointment?—I quite see that there are points where an advisory committee would be useful; but the reason that actuates me in expressing my opinion is, that I would prefer to have an individual who is vested with the responsibility and who could be called to account for it; and I do not think you would have the same hold over a committee as you would over a man in the Lord Advocate's position with responsibility such as I have already indicated.

60,393. You are aware that many public bodies such as universities and schools make appointments on the advice of an expert committee?—Yes.

60,394. In that way they get a sort of public confidence which appointments by individuals do not always obtain?—I quite realise that there are considerations on the one side and the other, but on the whole my view is—of course, I may be prejudiced by having been a Lord Advocate myself—that I would prefer to have the individual responsibility of a man in the position of Lord Advocate, subject to the criticisms and considerations I have referred to.

60,395. What do you think is the effect on the legal profession in Scotland of the fact that a young man with ambition finds it necessary to go into politics if

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he is to get an advancement of that kind?—I do not believe it affects the young men in the legal profession a bit. They take up their politics apart altogether from their profession. Further, I do not think the emoluments and position of the class of officers we are considering now would affect any man in making him take up his position on the one side or the other of politics, plus this, that he never can tell which side is to be in when his turn comes.

60,396. (*Mr. Shipley*.) I want to know about the private prosecutions. Lord Salvesen when he gave his evidence expressed an almost unbounded admiration for the judicial arrangements in Scotland, and he partly based it on the fact that there were practically, with hardly an exception, no private prosecutions, but I think you said private prosecutions were not allowed?—Yes, they are allowed, in this way, for example: A few years ago the Crown refused to prosecute in a case where it was said that a false certificate of the pit from which certain coal had come had been granted. The Crown refused to prosecute, and then the firm who complained went to the Judiciary Court and said, "The Crown will not prosecute in this case, and we think it ought to be prosecuted," and the Judiciary Court said, "Well, you have made out a case; you are entitled to go on with your prosecution." Accordingly the prosecution was instituted. I appeared for the defence and the accused was convicted; he was merely censured, or something; there was no sentence of imprisonment, or anything of that kind. You can have a private prosecution in Scotland subject to the Judiciary Court, which is our Supreme Criminal Court, saying, "We think this is a case where there should be a prosecution, and as the person who has been injured wants to conduct the prosecution we will allow him to do it."

60,397. Still, if the Crown can forbid these prosecutions and habitually does so, it rather knocks the bottom out of that particular argument?—They do not forbid them. They say, when the matter is brought before them, "We do not think this is a case that can be proved, or that ought to be tried," and in 99 cases out of 100 that ends it. In my experience I do not think there have been more than four or five cases of private prosecutions in the last 40 years. As I say, the last one which was of any importance as a private prosecution was vindicated, because they got a conviction.

60,398. (*Sir John Kempe*.) I think you and some of the witnesses have founded an argument against open competition and selection by a committee, and in fact any change in the Scottish system, on the ground of the smallness of the services in the legal departments?—Yes.

60,399. Of course, that ignores the question whether the present system is the best system; but you would not argue that if there is any objection to the present system the others are impossible?—Oh, no.

60,400. You have not considered it from that point of view?—I have to this extent, that I do not think you could get enough candidates. Taking, for example, a competitive examination such as you have for the ordinary Civil Service, I do not think for those offices, which require special attainments, you would get enough candidates to give you really any effective competition at all.

60,401. The present system has the result of keeping the appointments entirely within the legal profession, in point of fact?—Very nearly; I think that is so. A legal professional qualification for many of them is not required, but I think to a large extent that probably is so.

60,402. The reason is that the Lord Advocate has a large acquaintance with the legal profession, and, therefore, it is better to keep it in that way?—Yes. Still, it is not a necessity at all that the successful candidate for the post should have a legal professional qualification in many cases.

60,403. In this country there is a professional qualification required in many cases, although it is not necessary in all legal departments?—No.

60,404. And there is no reason why the same should not hold good in Scotland?—I agree.

60,405. Is the smallness of the legal department proportionate to the smallness of the population in Scotland, do you think?—We are said to be a very litigious people, but I do not know what the proportions are.

60,406. Would you have quite as good a field proportionately in Scotland for appointments by open competition?—Probably, except that we are paid on a much less satisfactory scale than in England.

60,407. If you keep the appointments within the legal profession, it tends to make the political appointments rather more frequent?—Yes, probably that may be so.

60,408. You argued, I think, that both sides get a fair representation?—I think with the turn about of politics it really is the result that both sides have a pretty fair chance.

60,409. Each side in turn can get its best men appointed?—Yes.

60,410. And there is a very large residuum in the middle, probably quite as good men, who never get anything at all?—That is so, but I think, probably, most Scotch lawyers are keen politicians on one side or the other.

60,411. You said just now that you did not think it tends to make people take sides?—No, I am perfectly certain that no professional man in Scotland ever argues for a moment, "I am going to be a Whig or a Tory because I may have a chance of being Sheriff Clerk or a macer in the Court of Session."

60,412. (*Sir George Paul*.) A certain amount of legal experience is required for a post like that of assistant clerk or ordinary clerk of Session?—I think so, and I would prefer that they should be legally qualified men. On the other hand, I quite recognise that there are cases where men have done the actual work and yet have not got the legal qualifications.

60,413. As regards competition, I suppose the man with the experience is past the age of competition?—Yes, he is too old to get the office.

60,414. And if he is a qualified law agent he has gone through the general knowledge examination twice and also the law examination?—That is so.

60,415. (*Miss Haldane*.) I suppose when you were Lord Advocate, there was a great deal of canvassing for appointments?—There was some; I would not say a great deal, and one was subjected to a certain amount of correspondence from one's political friends, and sometimes from one's political opponents, to say that So-and-So was a very good man for the place.

60,416. Could not you think of any way in which that might be reduced, and is it partly due to the fact that you are in the House of Commons and that it comes a good deal from the House of Commons, or from representatives in the House of Commons?—The disposer of patronage could intimate that if any letters were sent to him recommending anybody, that would score a point against him.

60,417. You have never thought of anything of that kind?—No.

60,418. The position of men in the Sheriff Clerk's office is not very satisfactory, is it? They have very little chance of promotion and they are poorly paid?—I only know that, not from my own experience, but from complaints that have been made or from letters that I have had.

60,419. You would hear of it when you were in office?—Yes.

60,420. I suppose you think that something ought to be done to make transference more easy and promotion more easy in those offices?—I have no doubt about that; and the understood rule should be that, as far as possible, if there is a fit man in the office, when a higher vacancy occurs he should get it. I am quite clear about that, and I think really that has come to be recognised by those who have the dispensation of patronage.

60,421. I mean as regards the staff of the Sheriff Clerk's office, at a certain age, would not it be a good thing if they could come into the Civil Service?—Yes, I think probably it would; but I confess I have great hesitation, because, as I have said, I have no experience

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in connection with the Sheriff Court office or the administration of it at all.

60,422. But you must have heard a great deal about it while you were in office?—I think the men themselves would like it so far as I can gather.

60,423. It seems to be rather a serious matter that these men come in and are not prepared for any other work, and yet they are in what, at any rate, in the smaller courts may be called a blind alley occupation?—That is quite true, but I doubt whether the training of those men would fit them to go into the ordinary Civil Service work. That is the trouble.

60,424. Might not the whole of that Service be brought into one, so that they could be promoted from one post to another?—I would be quite in favour of that. The only trouble is, that many of these offices are not very remunerative, and there would be great difficulty in shifting the men.

60,425. At present they are what might be called farmed out?—That is quite true.

60,426. That is not a good system?—In the abstract I think it is not.

60,427. Should not there be some sort of supervision to ensure the men in these offices having a chance?—Again rather deprecating my being able to give any satisfactory evidence upon the Sheriff Court administration, it involves a considerable wrench to take away a man from the Sheriff Court at Dumfries, for example, and transfer him to the Sheriff Court in Perth. His whole surroundings are in the one place, and he would have to start a new social life in the other.

60,428. He might not be adverse to that?—That is quite true.

60,429. I suppose you have had no experience in the employment of women?—No.

60,430. And you have no suggestions to make regarding that matter?—No.

60,431. (*Sir Donald MacAlister.*) With regard to the Court of Session offices, you have told us quite clearly that you would like to see promotion from the lower to the higher ranks carried as far as it conveniently might be. Those who enter in the lowest rank are not as a rule qualified legally to hold the higher posts, are they?—I do not know what is the rule, but certainly in many cases they are not.

60,432. Are there any facilities by which a clerk who enters at the lower rank can acquire a legal qualification while he is in the office?—Yes; for example, I know in my experience of a case where a man became a Lord Advocate's clerk, and then just thought he would like to have the legal qualification, which was easily adjusted, and he was able to attend classes, go to his examinations, and acquire the necessary legal qualifications. I appreciate entirely that that is an immense advantage to him.

60,433. That is to say, in Scotland a clerk in one of these offices can attend the university classes which are required for qualifying as law agent?—Yes. The only trouble is that he would need to serve his apprenticeship in addition to attending classes. So far as attending classes is concerned, there is really no difficulty about it; but there is a necessity to have either three or five years' apprenticeship. Of course, while he is doing that he cannot be doing anything else.

60,434. But he could proceed so far as to get a law degree while acting as clerk?—Yes, perfectly.

60,435. Both at Edinburgh and Glasgow?—At either. I do not know whether at Aberdeen too, but certainly Edinburgh and Glasgow.

60,436. So if by legal qualification you meant not the certificate of law agent, but the evidence of a legal education, that can be done perfectly well by those who enter in the lowest ranks?—Yes, it can be.

60,437. (*Sir George Paul.*) A University degree?—Yes.

60,438. But an apprenticeship is required to make a man a qualified law agent?—I think that in many cases would make a complete barrier, because while he is serving his apprenticeship he must give practically his whole time to that.

60,439. If a man has a University degree in Arts, for instance, a three years' apprenticeship is all that is wanted?—Yes; I had my degree in Arts, and I served

only for three years. If I had not had my degree in Arts I would have had to serve five.

60,440. (*Sir Donald MacAlister.*) But there are now degrees in law which can be taken by a clerk in the Court of Session?—Yes.

60,441. (*Mr. Graham Wallas.*) You told us that you thought it was unwise to appoint a Procurator Fiscal, asking him to give his whole time, however desirable that might otherwise be, unless there is enough work for him to take up his real day. In the small districts it is difficult to find that work?—It is.

60,442. Have you ever considered whether it might be desirable to introduce a practice by which the local Procurator Fiscal did the prosecuting work for the various local bodies—the prosecution work under the Public Health Act, for the District Committee, for the School Board, and for the Parish Council?—I think that is to some extent done, and, quite frankly, I think it would be an advantage if the Procurator Fiscal did it all.

60,443. If it is done now, it is done at a high rate for fees. It could be done more regularly, and perhaps in a more dignified way, and certainly cheaper, if done as part of the Procurator Fiscal's duties?—I agree about that. Probably you would find that the controlling body wanted to have their own prosecutor, but, no doubt, it would be far better if all these prosecutions were undertaken by the local Procurator Fiscal, his salary being proportionately increased, and the bodies for whom the prosecution was undertaken having to contribute in some way or other to the general fund.

60,444. If the local Procurator Fiscal was occupying that position, do not you think it would make it rather less desirable even than at present that he would be chiefly known in the district as the paid election agent of one side at the last election?—I do not know of any case where that has happened, but if it has happened I would be quite against a Procurator Fiscal being an election agent.

60,445. I said undesirable that he should be chiefly known as having been before his appointment a paid election agent?—You observe that the local Procurator Fiscal has all his proceedings, so far as political prosecutions are concerned, subject to the revision of Crown counsel, and I do not think any local Procurator Fiscal, and I do not think any Crown counsel—I do not care which side they belong to—would be affected by one hair's breadth by whether it was a political prosecution or not.

60,446. You told us that the present frankly political system of making appointments to these posts is, in your judgment, not defensible in principle, but that it works fairly well in practice. Would you agree that when one uses that distinction between principle and practice one is very often referring under the name of practice to the immediate effect of the system, and under the name of principle to certain large considerations which ultimately affect it?—If I may respectfully say so, that is probably quite a fair way of putting it, but I do not think, with the class of officials I am speaking of, there is any large enough body of officialdom that would be affected one way or the other by it.

60,447. But you would agree that in a country living as Great Britain lives, under party government, party government only works well when, on the whole, people work hard for their party when they entirely agree with it, slack off when they are doubtful about the party, and, when they think their party is definitely wrong, leave it?—I am not sure that I would agree with all that. The golden rule is that when your party is wrong you ought to stick to it harder than ever.

60,448. That obviously was the opinion of the Sheriff Clerk of Midlothian when he gave evidence before us. He said, with regard to the people who are now appointed, having been agents: "As a rule he is 'not a good lawyer or a good politician,' and then he added they are 'just adventurers'?"—I do not agree with that.

60,449. It struck the Commission as being said with obvious sincerity?—I have no doubt. All I say is, with all his obvious sincerity, I do not agree with him.

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[Continued.]

60,450. In so far that it might happen that the system which is in America called the "Spoils System," produces either in America, Great Britain, or anywhere else, a body of political adventurers who feel that their services would be most useful to their party when their party is most in the wrong, it would have a bad ultimate effect upon the political life of a place?—All I can say is that I have never known on either side—and I have been as keen a party man as anyone—any case, so far as the officials we are now considering are considered, where I could say that party bias had any effect at all.

60,451. I am thinking not of the effect on their administrative work, but the effect on their whole political life?—These offices are not big enough to affect the political life of any one of them.

60,452. It was said in Scotland the other day that things in that respect are going rather worse; that in the old days a man was appointed by his political opinions; now he is appointed for having done, actually day by day, paid political organising work. You have had a long experience; would you agree with that?—I do not know that I would agree just as you have put it. I think he may be much more often appointed because he has done non-paid political work—gratuitous work.

60,453. We were told this morning that the last three appointments that have been made from outside the Service, either to Sheriff Clerk or Procurator Fiscal, were given to paid political agents?—I am not personally acquainted with the cases, but I should think that is quite possible.

60,454. And it may be becoming more and more common that it is the small, active, paid politicians rather than the men of political opinion but not necessarily organising politicians, who are getting the posts?—I should think anything of that sort is really, so far as regards the efficiency of the Service, or the public feeling, practically negligible.

60,455. What is, in your judgment, the opinion of the profession in regard to this system of political appointments?—I think the profession takes it quite as a matter of course. We have all been brought up to it, and we get our turn on each side, as it is said, and no great harm is done, and no harm is done to the public service.

60,456. So I was told; but I want to submit to you certain sentences from the evidence, and to ask whether they do not indicate in the profession at the present moment a somewhat different point of view. We had Mr. J. H. Jameson before us. He was appointed by the Writers to the Signet to give evidence on behalf of his society. He said, speaking of this principle of political appointments: "I think the public do not get the best service." He was asked: "The system that you deprecate is the political element which you tell us exists too much," and he answered, "Yes," and he proposed that the patronage should be taken away from the Lord Advocate in consequence and given to a committee appointed by the Lord President. Then Mr. David Murray gave evidence on behalf of, and as representative of, the Faculty of Procurators, in which he said: "The view that because a man has been a political agent of some important person he should therefore be appointed to an office in the Register House is entirely out of date, and I do not think any body would be found to uphold it now. I think the legal profession in Scotland is all against it." Then Mr. Boyd Anderson, on behalf of the Incorporated Society of Law Agents in Scotland, said: "The general opinion of the profession is against political appointments to administrative posts." Mr. Walter James Lewis gave evidence on behalf of the Society of Solicitors in the Supreme Court in Scotland against political appointments, saying, "That system should be absolutely done away with so far as possible"—and he himself proposed a Standing Committee to obviate it. You, of course, know those bodies better than I do?—I know all the gentlemen and all the bodies.

60,457. They do represent a not unimportant and a respectable body of professional opinion?—I agree; and I do not say that in the abstract I would differ from that view. I think if you could eliminate politics from the appointments it would be an advantage.

60,458. I find it very difficult to understand you when you use the words "in the abstract." The abstract must exist in space and time, and if you include sufficiently large space and sufficiently long time the abstract and the concrete seem to me to be the same?—But you have to get your appointing body or person. That is the trouble about it.

60,459. Would you agree with Lord Salvesen when he said, "I do not like political appointments if you can substitute something better than the system we have at present"?—I absolutely agree with that.

60,460. Besides these political appointments we have inquired into a sort of appointment which you might call a personal appointment; namely, the personal claims of the old clerk upon his employer when that employer is fortunate enough to become Lord Advocate. Do you feel the same thing, that if somehow you could get rid of that arrangement and that tradition it would be a good thing?—Yes. I do not think the fact that there is a personal bond is necessarily a testimonial to fitness for an office.

60,461. Of course at present the Lord Advocate is responsible to Parliament for his use of patronage. Would not you agree that Parliament brings him responsibility in that way in a rather violent, accidental, and sometimes unjust way; it either takes no notice of it or is apt to get stampeded on the subject?—I think a Lord Advocate, judging from my own views, and also from, I am sure, the views of those I have known, would be very slow to appoint a man to an office merely because he was personally attached to him in the way you suggest, or because he had the same views in politics, unless he was satisfied that he was fit to discharge the duties of the office. My view about it is that I do not see that you can get an individual, or a body of individuals, who would have the same sense of responsibility and be equally able to be called to account if they failed in discharging their responsibility, as you have under the present system where the Lord Advocate does it.

60,462. But they seem to me entirely different things—the personal power and responsibility of the Lord Advocate on the one hand and the principles and traditions within which he works on the other. I think you have indicated that it might fairly be proposed that both sides should say: "Let us change in this respect; let us give up these party appointments of paid agents; let us give up appointments from the age of 67 downwards of personal clerks, and so on, and try to appoint the best men without reference to political opinions"?—Yes; but just give me your practical way of working out the plan, and what it is to be.

60,463. If we were in a religious assembly I might say that one method might be a method of conversion—a new heart. That you think impossible?—My view is, taking political appointments, that so far as the offices we are considering are concerned there are plenty of good men on both sides, and it only comes to be a question of whether the good man on this side is to get the place or the good man on the other side is to get it. In my experience I have not known any case—or I cannot recall any case; there may have been one—where an unfit man was appointed merely because he was on the one side of politics or the other.

60,464. It seems to me we are a little at cross purposes. There are two points of view; either on the whole the system works pretty well, and therefore it ought not to be changed; or it would be a good thing, but very difficult, to change it, and you would be prepared to sympathise with any proposal that would produce a change. I thought we were on the hypothesis that you were sympathising with the proposal to make a change in tradition in this respect?—No, my position is that I think the system has worked; but I have never seen suggested any system that would practically work as well, still less that would work better.

60,465. Changes in that respect have come in some of the Colonies, and the spoils system has been largely modified?—I have not had Colonial experience.

60,466. The universal spoils system which ran throughout the whole of the English Civil Service up to 1855 has been largely modified?—That is quite true. Of course the Civil Service here is on entirely different lines.

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[Continued.]

60,467. It has been modified partly by doubling the political head of a department by a permanent head who need not be of the same side of politics and who represents a view of administrative efficiency which is not coloured by political traditions. Do you think it would be a bad thing if the Lord Advocate had as his legal secretary a permanent official accustomed to serve both sides?—I would not have that on any terms. I would want to have a man of my own colour. I am quite clear about that. I have no sympathy with that suggestion. I may say that in my experience as Lord Advocate at Dover House I never knew what the politics of some of the principal officials were and I do not know yet.

60,468. (*Sir Donald MacAlister.*) They were under the Civil Service?—Yes, I agree; and so far as the offices we are now considering are concerned, I do not know in the least with regard to many of them what their politics are.

60,469. (*Mr. Graham Wallas.*) But if the appointment was made at Dover House after consultation with a high Civil servant whose politics you did not know, is it not really the case that it would be less likely that a paid agent of a political party would be appointed?—I agree entirely with that; but the officials we are now considering, or rather the candidates for the offices, would not in many cases be known personally at all to the officials in Dover House.

ONE HUNDRED AND FORTY-THIRD DAY.

Wednesday, 30th June 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman*).

Sir JOHN PRESCOTT HEWETT, G.C.S.I., C.I.E.

Sir JOHN ARROW KEMPE, K.C.B.

Mr. ARTHUR BOUTWOOD.

Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.

Mr. ARTHUR EVERETT SHIPLEY, F.R.S.

Mr. GRAHAM WALLAS.

Mr. E. W. H. MILLAR (*Secretary*).

Sir THOMAS LITTLE HEATH, K.C.B., F.R.S. (one of the Joint Permanent Secretaries to H.M. Treasury), called and examined.

60,470. (*Chairman.*) You are one of the Joint Permanent Secretaries to the Treasury?—Yes.

60,471. You have been in the Treasury for a number of years?—Thirty years.

60,472. The Commission have had evidence as to the nature of the joint control over the legal departments exercised by the Lord Chancellor and the Treasury. Is that control adequate from the Treasury point of view?—On the whole, yes. You are aware that there is a special arrangement by which, when there is a vacancy in one of the offices of the Supreme Court, notice has to be given to the Lord Chancellor and to the Treasury that the appointment is vacant, and it cannot be filled up for the space of a month after that notice. That, of course, gives the Lord Chancellor or the Treasury the opportunity of suggesting that the appointment should be dispensed with; beyond that, I think we must rely upon the heads of the departments themselves, out of their sense of duty to the public, to call attention to any case in which they are overstaffed and where economies would be possible.

60,473. The Treasury control applies, I suppose, to these two points—the salaries paid and the number of officers employed?—Yes.

60,474. Is that control exercised principally when applications are made for some increase of staff or of salary?—Generally, yes.

60,475. In cases where the work has decreased, or, for other reasons, there may be ground for thinking that the staff is in excess of the requirements, what means has the Treasury of ascertaining that there is a case for the reduction of staff?—We are dependent, I think, first upon the Lord Chancellor's Permanent Secretary, who has greater inside knowledge than we have, but beyond that I think we only have common knowledge; if, however, any suggestion is made to us that there is room for economies we welcome either a suggestion for economies or a suggestion for an inquiry into the office.

60,476. Supposing some ground were shown for thinking that a reduction was possible in a particular department, what would be the usual method of dealing with the position?—I think we should consult the Lord Chancellor as to whether he would consent to have the matter inquired into, probably by a committee.

60,477. In practice your communications upon matters of that kind are with the Permanent Secretary to the Lord Chancellor?—Yes, with the Permanent Secretary.

60,478. The Permanent Secretary, we have heard, has at present practically nothing in the way of assistants or an office to help in the performance of his duties?—I believe not.

60,479. If the duties of the Lord Chancellor in connection with the legal departments, and therefore the duties of his Permanent Secretary, were increased; if, for instance, as has been suggested, a larger number of legal appointments were concentrated in the hands of the Lord Chancellor, do you think his Permanent Secretary should be given any further assistance than he has at present for dealing with the questions that arise about the legal departments?—I think that might certainly be desirable, especially as there has recently been a change in the holder of the office.

60,480. A new holder will not be so familiar with the whole system as the retiring Permanent Secretary, and for that reason he might stand in greater need of some strengthening of his staff?—Yes, I think very probably.

60,481. In the case of the Scottish legal departments the Treasury exercises a similar control over the staff and the remuneration?—Yes.

60,482. What is the method of exercising its powers in Scotland?—We have the advantage in Scotland of the assistance of the King's and Lord Treasurer's Remembrancer, who lives in Edinburgh, who is the accounting officer for the Votes for Law Charges and Courts of Law, Scotland, and for the Register House, Edinburgh, and who is therefore in a position to advise us, after enquiry upon the spot, as to whether a certain proposal is justified or not.

60,483. You rely largely on his advice?—Yes.

60,484. The communications with regard to the Scottish legal departments take place with the Secretary for Scotland?—Yes.

60,485. All matters concerning the number of officers and their pay are discussed with him?—Yes.

60,486. Do you consider, from the Treasury point of view, that that system works satisfactorily, and that

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[Continued.]

the Treasury has adequate powers and means of control in Scotland also?—Yes, I think so.

60,487. The question has been raised whether the method of internal control in each department is satisfactory, and it has been suggested that it might be advantageous to have a more definite head of each legal department than there is, in some cases at any rate, at present, and also that that head might with advantage be assisted by an officer similar to the 'chief clerk' in some of the civil departments for the purpose of dealing with the details of discipline, distribution of work, leave, and so forth. Will you give us your opinion on that suggestion?—As regards the head, I think that in principle it would certainly be desirable to have one head who should be perhaps *primus inter pares*, but with as much control as possible over the others; but whether that would be possible in practice I am really not in a position to say. The organisation of the offices is somewhat peculiar; I believe they are to a large extent in almost watertight compartments, and therefore how far a change of that kind would be practicable I am not able to say. If it were practicable I think it would be a good thing. As regards a chief clerkship, in a similar way I think the services of a chief clerk would probably be very useful in co-ordinating the staffs and seeing that the offices were run on the same lines; but whether in practice there would be a sufficient amount of that work for him to do, again I am not in a position to say.

60,488. He need not necessarily be employed exclusively in that work, but might combine it with other official work if the chief clerk's work was not sufficient to employ his full time?—Yes.

60,489. Is it not the case that in some departments, where there is a chief clerk, the chief clerk does other official work as well as the chief clerk's work proper?—Yes, that is so.

60,490. Are you acquainted with the system under which appointments are at present made to the legal departments?—Yes, generally.

60,491. The greater number of appointments, as you are aware, are in the hands of the Lord Chancellor; in the case of appointments in the Probate, Divorce, and Admiralty Division, the President of the Division has the power of appointment; in the Central Office appointments are made in rotation by the Lord Chancellor, the Master of the Rolls, and the Lord Chief Justice; and in a small number of cases, such as the Clerks of Assize and their own personal clerks, the judges have the power of appointment?—Yes.

60,492. Has that system created any inconvenience from the Treasury point of view?—I think I may say that it has, and that the Treasury would welcome a concentration of the patronage in the hands of one officer, as, for instance, the Lord Chancellor.

60,493. It has been strongly represented to us by some witnesses that the power of appointment ought to be in the hands of a Minister responsible to Parliament. Do you concur in that view?—Yes.

60,494. The application of that principle in the case of the English legal departments would appear to lead to the conclusion that the power of appointment ought to be placed in the hands of the Lord Chancellor?—Yes.

60,495. It has also been suggested both by an ex-Lord Chancellor and by the retiring Permanent Secretary to the Lord Chancellor, that a standing committee should be created for the purpose of making recommendations to the Lord Chancellor regarding the candidates for appointments. The kind of committee suggested is one consisting of a Civil Service Commissioner, the Permanent Secretary to the Lord Chancellor, the head of the department concerned, and an outside solicitor of eminence. The actual responsibility for the appointment would rest with the Lord Chancellor who is responsible to Parliament, but he would make the appointment after considering the recommendations of such a committee. What is your opinion as to that suggestion?—I think that the Royal Commission have already made a similar recommendation in one of their earlier reports with regard to appointments to various professional and technical offices, and if the Lord Chancellor, with the probable increased amount of patronage

which, under the new system, he might have to administer, desired the assistance of an advisory committee of that kind, I myself see no objection.

60,496. If such a committee were created, would there be any advantage in the Treasury being represented upon it?—I think not.

60,497. A similar question has been raised as regards Scotland. As you are aware, the Scottish legal appointments are made chiefly on the nomination of the Lord Advocate. The suggestion has been made that the Lord Advocate might be assisted by a similar committee, but the evidence of the Scottish witnesses has, on the whole, not been in favour of a committee of recommendation. Are you prepared to express any opinion upon the question as applying specially to Scotland?—I think the same principle would apply, except, I take it, that the amount of patronage in Scotland is much smaller, and therefore the question is not quite on the same scale.

60,498. The question is on a much smaller scale, and therefore it has been represented that the Lord Advocate has full opportunity for knowing the merit of candidates, without a committee of recommendation. On the other hand, in Scotland the political system of appointment has been in force in a way that is unknown in England, and the committee was suggested rather as a means of eliminating the political element in appointments. Have you any opinion upon the suggestion from that point of view?—I have not a very definite opinion except that I think in principle the ordinary method of admission to the Civil Service by Civil Service certificate should be followed, and the usual course of promotion in a similar way.

60,499. We have been told that the higher appointments in the Pay Office of the Supreme Court are made by the Treasury. Do you consider that that system should be maintained, and if so, do you consider that the functions of a committee of recommendation of the kind I have described should extend to that case?—I think that the appointment by the Treasury is the best method of appointment, having regard to the special character of the office. Whether an advisory committee should be appointed depends much on the same considerations as I have mentioned before. If the First Lord of the Treasury felt that a committee would be of assistance to him in making a selection of candidates I should see no objection. On the other hand, of course, the permanent staff of the Treasury is an expert body which is always at hand to give advice as to the qualifications possessed by candidates, and therefore the machinery is already there.

60,500. The work of that office is of a technical accounting character?—Yes.

60,501. The qualifications required would be experience in accounting and in the management of a considerable staff?—Yes.

60,502. Have the persons appointed to the headship of that office on recent occasions been in possession of those qualifications before their appointment?—I think that the First Lord of the Treasury must have satisfied himself of their qualifications for the post, and they were, of course, certified to by the Civil Service Commissioners in the usual way.

60,503. A Civil Service certificate is required in their case?—Yes.

60,504. In the Civil Service generally the conditions of service are determined by Orders in Council?—Yes.

60,505. Do those Orders in Council apply to the legal departments, speaking generally?—Technically they do not, I believe.

60,506. But in certain particulars similar rules are applied, are they not?—Yes.

60,507. For instance, in the English legal departments a Civil Service certificate is required for the greater number of the posts?—Yes.

60,508. What are the exceptions in which Civil Service certificates are not required?—Appointments by the Crown, of course, are one exception; and the other exception is that of persons appointed under what is known as the Professional Section.

60,509. That includes, for instance, all the masters and registrars?—Yes.

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[Continued.]

60,510. Practically all the higher posts are so dealt with?—Yes, the higher posts.

60,511. In Scotland we have been told that the number of Crown appointments is large in proportion to the whole staff, and extends to comparatively humble posts. It follows from that, that in a considerable number of cases in Scotland the requirement of a Civil Service certificate does not exist. Do you consider it desirable that in all cases except the highest posts the appointment should be such as to require a Civil Service certificate?—Yes.

60,512. In other respects do you consider that the Orders in Council which govern the Civil Service ought to be substantially applied to the legal departments?—Yes, I think that would be desirable. I am strongly of that opinion.

60,513. One point which is regulated by Order in Council is the age for retirement. What should be the condition in that respect in the legal departments?—I think undoubtedly that all the ordinary members of the establishment of the Supreme Court should be required to retire at 65, on exactly the same footing as Civil servants generally.

60,514. You would apply that to Scotland also, I suppose?—Yes, to Scotland also.

60,515. When you say the ordinary members, you contemplate certain exceptions. What would they be?—I believe it is suggested that there are certain high officials, such as the masters, whose posts are very largely judicial in character, and that there is not the same necessity to fix the compulsory age for retirement at 65. I should be guided very much by the opinion of the Lord Chancellor upon a matter of that kind.

60,516. Would you be prepared to contemplate a higher age being fixed in the case of posts of a judicial or semi-judicial character?—Yes.

60,517. Have you considered what age would be suitable?—I think the natural age to suggest is 70.

60,518. I suppose in that case, as in the case of the Civil Service generally, you would admit of extensions under proper safeguards in exceptional cases?—I should think there ought to be less necessity for extension in those cases.

60,519. Other points which are regulated by Order in Council are leave, sick leave, and hours of attendance. Taking the question of leave first, we find that in some of the departments where the work falls off largely in the legal vacations, there may be some difficulty in finding employment for the whole staff during the whole year. What is your view as to the question of vacation and leave for the legal departments?—I think the existence of the long legal vacation makes a difference, but, so far as circumstances admit, I should like to see the ordinary rules as regards length of leave apply to the legal departments.

60,520. That is to say, the persons employed in the legal departments should be under obligation to give their services with holidays not exceeding the Civil Service holidays, and that system should be applied as far as practicable?—Exactly.

60,521. What do you say as regards hours of attendance?—I think that is very much on the same footing. I should like, if it were practicable, to see the usual seven-hour day established with a staff in numbers corresponding to that length of day.

60,522. When the seven hours' day was established in the Civil Service generally, was any compensation given to officers who had hitherto been serving only six hours a day?—Only to certain lower classes of officers. I believe I am right in saying that no one in the Higher Division, as it is called, received any consideration, but only other persons below the salary of 500*l.* a year.

60,523. Such compensation as was given was merged when those persons were promoted to a higher class?—Yes.

60,524. Are there any other points regulated by Orders in Council which would be applicable to the legal departments?—Apart from leave, sick-leave, attendance-books, and rules as to the grant of increments, nothing further occurs to me except that which prohibits a Civil servant from taking part in the management of any society or business of any description outside his public duties.

60,525. Is the Civil Service rule as absolute as you state it?—It is absolute, so far as it regards work which would necessitate a man being absent from his office during the ordinary office hours.

60,526. Is there any prohibition preventing a Civil servant from taking part in the management of a business if it can be done by attendance outside his official hours?—Not by Order in Council if it does not interfere with the discharge of his normal duties, that is to say, if it takes place in the evening, and is not inconsistent with the discharge of his public duties. But many departmental regulations go further.

60,527. Are there any other matters regulated by Orders in Council?—There are rules about probation and the rules about the granting of increments being contingent on a certificate that a man's conduct has been such as to justify the grant of an increment.

60,528. It would be reasonable, you think, that the same rules should apply in the legal departments?—Certainly.

60,529. The Commission has received evidence from persons employed in various branches of the legal offices, asking that they should be made pensionable. Before asking your opinion on some of the particular points which have been raised before the Commission, I should like to have some information as to the principles which have guided Parliament and the Treasury in determining what officers should be pensionable and what officers should not be pensionable. Can you give us a general statement of the principles upon which the pension system is based?—As you are aware, there are two main classes of public servants—one is the pensionable class who are eligible for pensions under the Acts of 1859 and 1909 or corresponding enactments; and the second is the class of what I may call gratuitable employees who may receive compassionate gratuities under an Act of 1887. I should say that the principle upon which the distinction was made between those two classes is this: there are certain classes of persons whom it is important in the public interest to retain throughout the years of their active life, on the ground that their duties are such as require long training and experience, so that their services become more valuable from year to year as time goes on. On the other hand, as regards the gratuitable or unpensionable class, these considerations do not operate; they are mainly posts which are not permanent or which could be filled, on a vacancy occurring, quite easily by equally qualified persons from the outside at market rates of wages. That I should think was the general principle upon which the distinction was made which has been embodied in those Acts of Parliament.

60,530. Are all persons in the employment of the State either pensionable or gratuitable, or is there a third category which is neither one nor the other?—There is a third category of persons paid out of a lump sum allowance given to a particular officer to enable him to provide himself with the necessary assistance.

60,531. You mentioned, as the ground for giving pensions, the importance of having a method of retaining for the service of the State persons who have been trained for particular work and whose services it is therefore important to retain. Has not another consideration entered into the question, namely, the importance in the interest of efficiency of requiring the retirement of servants of the State at a suitable age before they begin to be incapable of performing their duties efficiently, and the scandal that would result if those servants of the State were compelled to retire without any means of maintenance at all?—I have no doubt that one consideration in the minds of the framers of the Act was that the system of pensions would enable the State to dispense with the services of persons who were past their work; but I think the main consideration was, as I have said, the interest of the State in getting the best service in return for the salaries paid together with the prospect of a pension.

60,532. In your view, it is that consideration which has mainly determined the point at which the line was drawn between pensionable and non-pensionable service?—That is my belief.

60,533. Will you tell us how that is applied in practice? What are the actual qualifications which are

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necessary in order to make an employee pensionable?—First, of course, his work must be permanent; secondly, he must (save in excepted cases) be appointed in the regular and prescribed way by means of a Civil Service certificate, a qualification which involves not only the ordinary qualifications for his duties, but also the question of health and character. The third condition is, that it must be a whole-time appointment.

60,534. Taking first the condition of admission, you have told us that, in the case of Crown appointments and in the case of professional appointments under Section IV. of the Act of 1859 or Section 17 of the Supreme Court of Judicature (Officers) Act, 1879, a Civil Service certificate is not required?—Yes.

60,535. In those cases are any steps taken to ascertain that the health of the person appointed is satisfactory?—I think in a number of departments a medical certificate is required in the case of professional appointments, and the Treasury is of opinion that it ought to be required.

60,536. Is it ever required in the case of Crown appointments?—I cannot speak positively. I am not aware that it has ever been required.

60,537. It is not a condition laid down either by the Treasury or by Order in Council that it should be required?—No; if in any case it is required, it must rest on the decision of the Minister who is responsible for the appointment.

60,538. You say it is your opinion that a medical certificate should be required in all cases?—I think it is very desirable that it should be required.

60,539. Then you say that whole-time service is another requirement?—Yes.

60,540. Is that statutory?—That is not statutory so far as the Acts of 1859 and 1909 are concerned. It is a matter of established Treasury practice since the date of those Acts, and it has received a sort of Parliamentary sanction by its application to the gratuitable class by the Act of 1887. Compassionate gratuities can only be granted to persons whose employment is whole-time.

60,541. (*Mr. Boutwood.*) Is that universally true? I remember a case where a charwoman did not get a gratuity because she had not fulfilled some condition, but she was gratuitable?—Charwomen, I believe, are understood to give whole-time; that is to say, they are understood to work some five or six hours in a day—presumably not the same hours that a clerk works, but an equal number of hours.

60,542. (*Chairman.*) You have spoken hitherto only of those pensionable under the general Acts?—Yes.

60,543. There are also certain special Acts making particular classes pensionable?—Yes; the legal departments, indeed, get their pensions under special Acts.

60,544. Is it the case that under certain of those special Acts officers who do not give their whole time are pensionable. For instance, in the case of the Sheriffs in Scotland is that the case?—I have heard of that case. I was not aware of it before. I believe that is so.

60,545. Do you know of any other cases of that kind?—I do not know of any other case.

60,546. So that, speaking generally, with some few possible exceptions of that kind, the requirement of whole-time service is applied as a criterion of pensionability?—Yes.

60,547. In your opinion that ought to be maintained?—Yes.

60,548. Are there any other criteria?—Another requirement is that the salary must be payable out of moneys voted by Parliament. Then there are the other qualifications about a minimum length of service, and so on, which I need not go into.

60,549. The payment out of moneys voted by Parliament is held to exclude persons paid out of a lump sum granted for the purpose?—On the ground that such persons are not in the direct employment of the State; that lump sum is a lump sum payment to a certain officer for providing himself with assistance.

60,550. In such cases the employee is appointed by the officer to whom the lump sum is entrusted?—

Exactly; he is appointed by him and he is dismissed by him.

60,551. In some cases the actual salaries paid to individuals out of the lump sum are fixed by the Treasury, are they not?—In the case of certain registrars' offices I believe that is the case.

60,552. But, even though that is done, is it still held that the fact that the lump sum is given to the head of the office to administer excludes the person employed from pension?—Yes.

60,553. Is the real ground for that exclusion the fact that they are appointed by the officer, and not by a central authority?—That is the understanding upon which the whole system rests—that they are to be the servants of the person to whom the allowance is made, and that he is responsible for them; he appoints them and he dismisses them, and they have no direct relation to the State.

60,554. That has been the rule which has hitherto applied to the staff of solicitors in public departments, for instance?—Exactly.

60,555. Also to the various local staffs of the County Courts, the District Probate Registries, and, in Scotland, to the Sheriff Courts, the Procurators Fiscal, and so forth?—Yes.

60,556. Apart from the direct system of State pensions which you have described, does the State in any cases give assistance to pension schemes for persons less directly in State employment?—There are two quite exceptional cases of that kind, namely, national school teachers in Ireland and elementary school teachers in England, who are under special Acts.

60,557. Will you tell us generally the nature of the arrangements in those two cases?—In the case of Ireland there is a National School Teachers' Fund, out of which pensions and gratuities are given, and which is fed by deductions from the salaries of the teachers, by interest on an endowment fund, and by an annual direct vote put on the Estimates.

60,558. In that case, does the State guarantee a certain scale of pension?—Subject to this, that if it proves to be the fact that the benefits are too great, it is open to them to make new rules to increase the deductions or decrease the benefits.

60,559. Is the fund administered by the State?—Yes.

60,560. What in practice has been the working? Has it worked satisfactorily?—I am afraid it has been rather unfortunate, because that particular fund has been in a state of what I may call chronic insolvency, and the State has had to come to its assistance by making larger votes.

60,561. Is that because the actuarial calculations on which it was based were too sanguine?—It is, I think, because undoubtedly teachers, like Civil servants, appear to be a selected class of life, with chances of life considerably above the average, and sufficient allowance, presumably, has not been made for that fact by the actuaries in calculating the benefits.

60,562. The scheme is entirely a pension scheme, and not a life assurance scheme?—It is a pension scheme subject to this: that there are certain cases in which under the earlier rules premiums may be repaid in case of disablement.

60,563. You mentioned also the scheme for elementary school teachers in England?—That is on a different system. The State there gives a very small pension which may either be a superannuation allowance at the age of 65, or a disablement allowance from an earlier age, the rate of calculation being at so much per year of service—quite small, 1*l.* or 3*s.* That is all that the State does. In addition to that there is an annuity fund, to which the teachers themselves contribute by deductions from their salaries; and they receive in accordance with tables certain annuities from the age of 65 in return for those payments.

60,564. By whom is that fund administered?—That fund is administered by the Education Office, with the help, as regards finance, of the National Debt Commissioners.

60,565. The fund is invested in Government securities?—It is invested in Government securities.

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60,566. Is any particular scale of pension guaranteed?—Yes, the annuities are payable in accordance with certain tables from the age of 65.

60,567. So that the State takes the risk of the actuarial calculations on which those tables are based?—Yes, unless fresh tables were constructed under the powers of Section 4 (2) of the Act of 1898.

60,568. How long has that scheme been in force?—Since the year 1899.

60,569. So that there has hardly been time to tell how it works out?—There have, as a matter of fact, been two actuarial enquiries into the fund. One was seven years after the initiation of the scheme, and the other is now proceeding. The experience of that fund, too, may, I think, prove not very satisfactory. On the occasion of the first actuarial report there was very grave reason to believe that there was a large deficiency, but it was felt that the time during which it had been in force was too short to enable a sound opinion to be formed, and it was decided to wait for the next report. That report will, I believe, soon be ready; but it is not ready at the present time.

60,570. Has a similar question been considered in relation to secondary school teachers?—Yes; there was a Committee appointed by the Board of Education to consider whether a system of that kind with any modifications which might appear suitable in the case of secondary and technical school teachers should be started for such teachers.

60,571. Were you a member of that Committee?—I was.

60,572. Will you tell us, briefly, what that Committee recommended?—So far as regards the State contribution the recommendation was that precisely the same scale of pensions—the small pensions which I have referred to—should be given as are given in the case of elementary school teachers, and that anything beyond that should be provided by the teachers themselves and the employing authorities.

60,573. The employing authorities being the different education authorities?—The local education authorities. We did not recommend that an annuity fund should be started such as had been established for the elementary school teachers, partly because the number of teachers was not large enough to justify the establishment of such a fund, but also because of the dissatisfaction which has always been felt among the teachers with the working of that annuity fund. It is inevitable with a fund administered by Government that it should be restricted to a certain small area of investment, so that the return on the amount contributed is much smaller than if the fund were not under Government control. Consequently the teachers have always been discontented with the benefits which they have received from the contributions made to the annuity fund. Accordingly the Committee on Pensions for Secondary and Technical School Teachers recommended that the system should be quite different, a system not controlled by Government, but that in view of the comparatively small number of teachers it should be worked through insurance companies, the teachers making arrangements by certain deductions from their salaries to secure benefits at the ages of 60 or 65, which might be of varying kinds. There might be the endowment assurance, or the annuity payable from a certain age, and so on. The result of that would be that the work would be spread over several insurance companies. There was an idea that the selection of those insurance companies might be governed by a committee containing representatives of the teachers with a representative from the Board of Education, and that it should be worked in that way without any intervention from Government.

60,574. The Committee were of opinion that such a scheme was perfectly practicable?—Yes.

60,575. Did that Committee examine exhaustively the great variety of schemes which are in force for pensions to teachers employed under different authorities?—Yes; a great many details will be found in that report of schemes that have been established by various authorities or bodies of persons.

60,576. Without going into details as regards those schemes, would it be correct to say generally that in

a very large number of cases schemes are actually in force and working, under which benefits, determined or undetermined in amount, are secured by means of contributions from the salaries of the teachers aided by contributions from the employing authority?—Yes, in a good number of cases.

60,577. Are you acquainted with the system of pensions which is in force in the case of the Poor Law services?—I am aware of the system which was established by the Poor Law Officers Superannuation Act.

60,578. Is that also a system of contribution by the person employed aided by the employer?—I believe that that is the system under which, while the officers contribute a certain amount by deduction from their salaries, the employing authority is responsible for the payment of a certain rate of pension; that is to say, the balance which the contributions fail to produce will be payable out of the rates.

60,579. In that case the employing authority takes an undetermined responsibility, the amount of which, as compared with the expectation, will depend upon the accuracy or inaccuracy of the actuarial calculations?—Yes.

60,580. In the Committee on Secondary School Teachers' Pensions, did you examine any of the schemes in force in the case of other private employment—the case of railway companies or other large employers?—I think we did not examine them in detail. We were aware of the existence of such schemes.

60,581. There are a large number of schemes in force which are based on that principle of contribution by the employee, aided by a contribution in some form or a guarantee of benefits by the employer?—Yes. We were also informed that in a good many cases those funds, too, had proved to be insolvent; that is to say, these large private companies were not exempt from the same fate which had befallen other schemes of the kind.

60,582. That is to say, where the employer had undertaken to guarantee a certain scale of benefits, the burden had turned out in many cases greater than was expected?—Yes.

60,583. Turning now to the particular cases in which representations have been made to the Commission on the subject of pension, we have, in the first place, certain cases in the central legal offices both in England and in Scotland. The staff of the Official Solicitor ask to be made pensionable. Can you tell us on what ground they have not been hitherto considered to be eligible for pension?—The ground, I think, is the same as in the case of the solicitors' departments to which reference has been made. The Official Solicitor is granted a certain allowance for clerks, and he is responsible for the appointment and dismissal of the clerks; and he also, in this particular case, is financially responsible for the funds which he administers.

60,584. We were told that the staff of the Official Solicitor is, for all practical purposes, permanent, and that, as in the case of departmental solicitors, the expectation that there would be an interchange between the departmental staff and the staff in private offices in the general profession has not, in fact, been realised. On that and other grounds the Commission has made certain recommendations with regard to the staff of the departmental solicitors which would result in a different method of appointment and the grant of pensions. Are there any circumstances which differentiate the staff of the Official Solicitor from those other staffs, and would make the recommendation of the Commission inapplicable to the Official Solicitor's staff?—There is the difference that they would have to be pensionable under the Supreme Court of Judicature Acts, and therefore they would have to be made officers of the Supreme Court in the same sense as the pensionable officers under those Acts. There is the further fact that the Official Solicitor himself is not a pensionable official, and I think that will constitute a difficulty in making his staff pensionable.

60,585. Why?—It would, of course, require a different method of appointment, that is admitted; but I think if the financial responsibility of the Official Solicitor remained as it is it would be difficult to

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maintain it with a system by which he was not responsible for the appointment of the clerks.

60,586. The financial responsibility difficulty could be got over by requiring fidelity guarantees or insurance from the employees?—No doubt.

60,587. Apart from that, does the fact that the Official Solicitor himself is not pensionable make it impossible that his staff should be pensionable?—I think that difficulty could probably be got over, but I have understood that the Official Solicitor himself has said that he would wish to have a veto on the appointment of clerks to his establishment. That, of course, would be quite impossible under a system of Civil Service certificates.

60,588. Would that necessarily be incompatible with the granting of a Civil Service certificate?—I think that if that requirement were withdrawn the difficulty could be got over. I think the method of appointment would have to be changed; I think persons would have to be appointed by the Lord Chancellor, subject to one of the recognised methods for entry into the Civil Service.

60,589. If the staff were appointed by the Lord Chancellor, and if the system were adopted of a committee of recommendation, the Official Solicitor would, no doubt, be a member of that committee for the purpose of appointments to his own staff?—No doubt.

60,590. In that way he would have a voice in the appointment?—Yes.

60,591. Another case was that of the mapping staff in the Land Registry. That staff, as you are aware, was originally taken from the Ordnance Survey, and they represented their claims to pension on various grounds, among others that the corresponding employees in the Ordnance Survey had, since they had quitted that department, been admitted to pension. Can you tell us why they have been considered not to be pensionable?—I think the only difficulty in that case was that it was uncertain how far the existing number of men would be permanently required in the Land Registry. There was also the question as to whether it might be amalgamated with some other department, either with the Ordnance Survey or with the Land Valuation Department of the Inland Revenue. That doubt, so far as I know, is the only obstacle to their being made pensionable on similar lines to the Ordnance Survey assistants.

60,592. The corresponding staff in the Ordnance Survey were admitted to pensions some years ago?—Yes, after a certain number of years of unpensionable service—15 years, I think.

60,593. Can you tell us on what terms they were made pensionable?—The terms were that they should submit to a deduction from their salaries as a set-off against the pension charge. This deduction was graduated on a scale between 5 and 10 per cent., according to the number of years' service which a man had. Then, on ultimate retirement, they were allowed to count half their adult unestablished service for pension in addition to their established service.

60,594. Have there been many other cases in which an unestablished staff has been established?—I can recall to mind two cases; one is that of a few hundreds of men belonging to the class known as clerks to surveyors of taxes. Those officers were originally all in the personal employment of the surveyors and therefore unestablished, but, during the last few years, they have been divided into four classes, the two upper classes being made pensionable and the two lower classes being still unpensionable. Appointments to fill vacancies in the established classes are made by selection from the unestablished classes.

60,595. The established classes are filled by promotion from the unestablished?—Yes, by selection from the unestablished classes.

60,596. In that case was a deduction made from the salaries of the persons admitted to pension?—I am inclined to think that no deductions were made, because definite scales of salary were adopted for the established classes, and they were put on those scales.

60,597. What was done in that case about counting previous unestablished service?—The same principle was followed, that they should count towards pension

half their adult unestablished service in the direct employment of the Board of Inland Revenue, but not their previous service in the personal employment of the surveyors.

60,598. You mentioned a second case?—That is the case of certain draughtsmen in the Office of Works and in the War Office. Those persons were considered to be doing work superior to the class of ordinary draughtsmen, and it was thought that their work was so valuable that they came within the cases where it is desirable to retain people in a pensionable capacity. Consequently a system was started by which a certain number of them were established on much the same lines, namely, that of the unestablished service so much could be counted as had been spent on the superior work, but not exceeding half the total years of unestablished service.

60,599. Is there any other large body of clerical workers in the service of the State who are still unpensionable?—Yes, there are quite a number of persons. From a rough return which I had made the other day, I think the clerical persons under that category number something like 4,500 or 5,000, not including the Post Office. There are clerks to certain inspectors of factories and others; there are a large number of hired writers and clerks in the War Office and Admiralty, and a few other classes of that kind, the total being something like 4,500 on pre-war figures.

60,600. Have many of those persons the opportunity of promotion or appointment to pensionable classes?—As regards the writers and clerks in the War Office and Admiralty there is a class above them of established writers, and I presume that they have the chance of selection for those posts. So far as I know there is no particular outlet for the other classes.

60,601. Apart from those, would the greater number of unpensionable employees of the State be of the artisan class?—Of the artisan class or labourers.

60,602. The case of the scribes in the Central Office of the Supreme Court and in the Principal Probate Registry has also been represented to us. On what ground have they been considered unpensionable?—In that case there is a statutory obstacle, namely, that they are paid by piecework.

60,603. What statute does that depend on?—On Section 2 of the Act of 1859. Under that section they must be paid salaries or wages.

60,604. That has been held to exclude men paid by piece-work?—Yes.

60,605. Then are no officers paid by piece-work pensionable?—I am not aware of any clerks at the present time. I dare say there may be workmen in dockyards who are paid by piece-work.*

60,606. Are the dockyard men paid by piece-work pensionable under the Act of 1859 or under any special Act?—The established dockyard men are mostly pensionable under the Act of 1859 or 1909.

60,607. In spite of the fact that they are paid by piece-work?—They are presumably pensioned on time rates. I am afraid I am not acquainted with the details of their wages.

60,608. The words of Section 2 of the Act of 1859 are: "Persons who shall have served in an established capacity in the permanent Civil Service of the State, whether their remuneration be computed by day-pay, weekly wages, or annual salary"—those are the words which are held to exclude payment by piece-work?—Yes. No doubt in the Admiralty the men are normally paid by day-work, but there may be certain particular duties for which the rate of pay is changed.

60,609. These scribes are gratifiable?—Yes.

60,610. Their case has, I think, on various occasions been represented to the Treasury?—I think there was a proposal made for the establishment of some kind of contributory system.

* I understand that in fact there are no cases in which established dockyard workmen are now employed on piece-work. The rule is that no officers are pensionable who are not paid salary or wages. But piece-work earnings, in the rare cases where established officers are partly employed on piece-work, may be taken into account under Section 2 of the Act of 1859 as emoluments.—T. L. H.

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60,611. A suggestion was made that a contributory scheme should be started. Before dealing further with the nature of a possible contributory scheme, it may be convenient perhaps to mention the other cases in which claims have been made to pension. A similar case to the scriveners in the English legal offices is the case of the engrossers in the Sasines Office and in some other offices in Scotland. The considerations which apply to them are I presume the same as those which apply to the scriveners in the English legal offices?—Yes.

60,612. We have also received representations from the staff of the local offices—the County Courts and District Probate Registries in England; the Sheriff Courts and Procurators Fiscal in Scotland. From what you have said I gather that the reason why they are not pensionable is, that they are appointed by a local officer and paid out of a lump sum allotted to him for the purpose?—That is so.

60,613. Under existing legislation, would it be possible to make them pensionable?—To which class do you refer?

60,614. I am speaking now of the staff employed in the offices of County Courts, District Probate Registries, Sheriff Courts, and Procurators Fiscal?—I will take the District Probate Registries first. I think that legislation would be necessary in that case. We have been advised that the clerks to registrars in the local probate registries are not officers of the Supreme Court within the meaning of the Judicature Acts, and therefore, if they were to be made officers of the Supreme Court and appointed with a Civil Service certificate, I think there ought to be legislation.

60,615. We have been told that the legal opinions given with regard to the position of the clerks in district probate registries have not been always identical in tenor?—There have been two opinions, the second opinion agreeing with that which the Treasury has held all along.

60,616. And it was diametrically opposite to the first opinion?—It was opposite to the first opinion.

60,617. You told us that the ground of that opinion was that these clerks are not officers of the Supreme Court within the meaning of the Supreme Court Officers Act?—Yes; I think legislation would undoubtedly be necessary to make them so. In the case of the County Court clerks, I think to pension them would be quite incompatible with the system established by the County Court Acts.

60,618. The method of the appointment of the clerks in district probate registries is that at present they are appointed by the district probate registrars with the approval of the President of the Probate Division?—Yes.

60,619. Do you consider that that method of appointment is compatible with making them pensionable?—No; I think it would have to be changed.

60,620. You think it would have to be appointment by a central authority and not merely with the approval of a central authority?—Yes, I think so.

60,621. As regards the district probate registrars themselves, we were told that those who had formerly been clerks in the Principal Probate Registry, that is to say, 26 out of the total number of 40, are pensionable because they entered the Service originally with a Civil Service certificate. As regards the remaining 14, the evidence was, I think, not quite explicit, but, generally speaking, the remaining 14 are not pensionable?—I believe that is so.

60,622. Do you say that they cannot be pensionable unless they are admitted by a Civil Service certificate?—Unless they are made officers of the Court with a Civil Service certificate or exempted from the necessity of obtaining a certificate by an order of the Lord Chancellor.

60,623. They are presumably officers of the Court, as 26 out of the 40 are pensionable?—Those particular officers are, I understand, officers of the Court.

60,624. That is to say, the post of probate registrar in itself is, or at any rate can be, that of an officer of the Supreme Court?—Yes, subject to the method of appointment being such as is prescribed.

60,625. The method of appointment is in all cases at present appointment by the President of the Division?—Yes.

60,626. So that in that case the question of the Civil Service certificate is the determining point?—Yes, I think so.

60,627. Turning now to the County Courts, the County Court judges themselves are outside the reference to this Commission, and we need not, therefore, speak of them. The registrars are appointed by the County Court judge, and the staff of the offices is appointed by the registrar?—Yes.

60,628. What do you say as to their position regarding pension?—I think, as I have said, it would be impossible to make them pensionable except by legislation.

60,629. Taking the registrars first, some of them are part-time officers, and would be excluded, I suppose, on that ground?—Yes.

60,630. Taking those who are whole-time officers, what is it that excludes them?—There are a certain number, as you are aware, who are whole-time officers because they are debarred from private practice by an order of the Lord Chancellor. There are, I think, 14 of those in 12 courts.

60,631. Are those registrars pensionable?—Yes. Then there are, I think, some others with whom there is an understanding that they give their whole time to the work, but they are not under a definite obligation.

60,632. They are not pensionable?—No.

60,633. There might be a claim on their part to be made pensionable on the ground that in fact, although not in form, their position is similar to that of the pensionable registrars?—A claim, which, of course, has no basis on the Act. It could only be put forward as an equitable claim.

60,634. In order to bring them within the Act, it would be necessary that the Lord Chancellor should make an order excluding them from private practice?—Yes.

60,635. The staff are excluded, I suppose you will say, because they are appointed by the registrar, and not by any central authority?—Yes.

60,636. Even where they give their whole time to the post?—Even where they give their whole time.

60,637. It has been pointed out to the Commission that very considerable inconvenience arises in practice from the absence of a pension system, because when a clerk gets old and past his work a registrar naturally hesitates to turn him away without any provision at all, and the result is that the men are sometimes kept on, doing such work as they can do, long after they are past their work. That consideration is one which appears to tell in favour of the creation of a pension system of some kind. Given that there are difficulties in placing a staff of this kind upon a State pension system, do you consider that any form of contributory pension scheme would be applicable to them?—I think it is unlikely that any Government would be prepared to initiate a scheme involving State contributions to the pensions, because, for one reason, it is understood that these clerks are paid the full market rate. But provided that a sound scheme of benefits, depending upon contributions from the salaries of the men themselves, were established, I think that the Treasury would be quite prepared to agree to such a scheme, and to give any advice and facilities in their power, such as facilities for the deduction of the premiums from salaries.

60,638. You have told us that in certain cases the State has assisted pension schemes of persons not directly in the employment of the central authority—in particular, in the case of elementary school teachers?—Yes, in the very special case of elementary school teachers in England.

60,639. In what respects do you consider that the case of the elementary school teachers, that you speak of as a very special case, differs from the case of the staff of the County Court?—I am not quite prepared to say what were the reasons for the establishment of the systems in the cases of the elementary school teachers, but I call them special, because they were each of them started after definite inquiries, and by special Acts, which do not apply to anyone else.

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60,640. A special Act, no doubt, would be necessary if any scheme with State assistance were to be started for County Court employees?—Undoubtedly.

60,641. You told us that in the large variety of schemes, both of local authorities and private employers, which were examined, there was in all cases some contribution on the part of the employer to assist the contribution on the part of the employed?—I think that, no doubt, is the general rule; but I pointed out that, as regards the elementary school teachers in England, the annuity fund part depends entirely upon the contributions made by the teachers.

60,642. In the case of the secondary school teachers, the recommendation of your Committee was that that contribution on the part of the employee should be met by a contribution on the part of the employer, and also by a separate annuity on the part of the State?—By a separate small pension paid by the State, which was to have no connection with the other system to which the employer and teacher contributed.

60,643. Except this connection, that it would add to the amount that the person employed would receive?—Exactly—that they were paid to the same persons.

60,644. In that case there was to be a contribution from the direct employer—the education authority—and also this separate assistance to the individual from the State?—Yes.

60,645. Do not the considerations which in cases such as that, and in all the numerous schemes which are in force, make it desirable that the employer should contribute something, apply to such a service as that of the County Courts?—I think that to establish a scheme for County Court employees as Civil servants with a State contribution, would be introducing a new element into the superannuation system of this country which would require a very great deal of consideration, and would probably have the effect of upsetting that system as it now exists. It could not, of course, be confined to the staff of County Court registrars; it would have to be applied, sooner or later, presumably to all officers now gratuable under the Act of 1887, such as those writers in the War Office and Admiralty, clerks, and others of the same kind. I think that any Government would hesitate before it introduced an entirely new principle into the superannuation system of the country.

60,646. In introducing any contributory pension scheme in the case of an existing staff, is there always a considerable difficulty as regards persons who have been in the Service for a long time, and are approaching their age for retirement?—Very great difficulty. That is always one of the greatest difficulties in establishing such a fund.

60,647. Supposing it was considered desirable, on general grounds, that some form of pension scheme should be instituted, would there not be some force in a request for assistance from the State in that respect—a request, I mean, for contribution in some form that would help out the scheme as regards existing employees?—I know of no precedent for such a concession, and I do not think, as regards persons paid at the market rate, as are the staffs of registrars of County Courts, that that suggestion would be entertained any more than the other.

60,648. I am speaking, not only of the registrars of the County Courts, but of the whole of their clerical staff?—Yes, I was referring to the whole of their clerical staff.

60,649. Was it not the case that the teachers were paid the market rates?—They are the servants of the local education authorities, and I am really not in a position to say. I do not know what their salaries were.

60,650. They were employed before the existence of this system, and were paid such rates as would command their services?—No doubt.

60,651. Is there any reason to think that the County Court employees are paid at a better market rate than the teachers were?—I am afraid I am not able to compare the two.

60,652. In saying that the County Court employees are paid at the market rate, have you made any comparison with the rates of pay of clerks in outside employment?—The comparison there I take to be with the rates paid to clerks in solicitors' offices and the like and

I understand that the rates paid by the registrars compare favourably with those rates.

60,653. Have you made a comparison of that nature?—I am taking that rather on the basis of the evidence which I understand has already been given.

60,654. Supposing Parliament were willing to give some assistance to a contributory scheme, have you considered at all what the general principles of such a scheme should be. In the first place, schemes for a contributory pension system aided by the employer can be broadly divided into two classes—those in which the employer guarantees a fixed scale of benefits, and those in which the employer makes a contribution determined in some way but does not guarantee a fixed scale of benefits. If any scheme were adopted, into which of those two classes in your opinion ought it to fall?—Subject to what I have said about the unlikelihood, as I think, of a State contribution, I think the objections to a State scheme are those which I have mentioned—that the benefits could not be such as the contributing officers expected, because of the narrow range of Government investments.

60,655. You would, therefore, prefer a scheme which would not be directly managed by the Government?—Exactly.

60,656. In which the persons concerned might make their own arrangements for investment?—Yes.

60,657. Or their own arrangements with an insurance company or a group of insurance companies?—Yes.

60,658. The recommendation which your Committee made in the case of secondary school teachers was of that nature?—Yes.

60,659. And you would apply that same principle in the case of any contributory scheme for the persons we are considering now?—Yes, I think that would be the safest principle to adopt.

60,660. In the case of the secondary school teachers your recommendation was that the State assistance should be in the form of a determined contribution—in that case of certain annuities—but not in the form of any guaranteed benefits?—Yes.

60,661. That principle would also apply in this case?—Yes, if any State assistance were given.

60,662. The other cases I have mentioned are those of Scottish local legal staffs. Broadly speaking, would the same considerations apply there as those we have been discussing in the case of County Courts?—I think exactly the same.

60,663. You have no special observations to make with regard to those Scottish staffs?—No, I am not aware of any substantial differences.

60,664. (*Mr. Boutwood.*) When the change was made in the hours of attendance in the Civil Service from six hours to seven, was there any general reduction of the staff or postponement of enlargement, do you think?—Yes, I think there was. So far as a reduction could be made vacancies were left unfilled. I could not say that the reduction was proportional to the increase of hours, but some reduction was made.

60,665. There was a tendency in that direction—may I put it in that way?—Yes.

60,666. It was put before us that the case of a pension is really, apart from anything in a statute, one of general considerations, and applies equally whether a man gives his whole time or part time, and there is no more difficulty in giving a man a proportionate pension on a part-time salary than there is in giving him a pension on a whole-time salary. I think we were told that in some of the local services, under some of the Poor Law authorities, that did take place and that part-time officers got pensions?—Yes, I think I can explain what is meant. In the early days of the Imperial Superannuation Acts there was a possibility of giving pensions to persons who did not give their whole time, as, for instance, I believe I am right in saying, certain prison officers who were transferred to the State in, I think, the year 1878. It was not possible to refuse pensions to those persons, because presumably they gave the bulk of their time to the State, but what was done was, that one quarter was subtracted from the full amount of pension. That arrangement, of course, is long since dead so far as the Government service is concerned, but

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there are a number of local cases which come to us on appeal where an officer of a local authority appeals against the award which has been made by the authority and the Treasury has to decide on that appeal. In certain cases these officers are part-timers, and generally the local authority makes that 25 per cent. deduction. If the local authority does not make it the Treasury does.

60,667. (*Chairman.*) Is it the case that the officials who come under the Poor Law Service Pension Act are in many cases part-timers?—I am afraid I could not say; I do not know.

60,668. Is it under that Act that appeals come to the Treasury?—No, under the provisions of the Local Government Act of 1888 and the Local Government (Ireland) Act, 1898, as applied by subsequent statutes.

60,669. (*Mr. Boutwood.*) When you spoke of certain pension schemes as being insolvent or in danger of insolvency, what precisely did you mean? What I have in my mind is this: I know one very large pension scheme which was reported to be insolvent, but it merely meant that if the maximum number came on for the maximum benefits at the same time the fund could not stand it. That is a very severe test. Did you mean something less than that?—The question, of course, is an actuarial one. The actuary, I take it, reckons up the liabilities that will accrue according to the ordinary chances of life in respect of the staff then employed; he finds that the contributions are amounting to a certain sum annually, but that if those liabilities mature, which he has arrived at on the tables of life, ultimately the benefits will not be secured; that is to say, there will be a deficiency.

60,670. It means a more moderate test than the one I mentioned. There is another point which perhaps you can explain. How is it that in some of those lump sum cases the Treasury approve the salaries that are paid to the clerks employed and in other cases apparently the Treasury do not, but leave the whole thing to the discretion of the man who receives the lump sum? Procurators Fiscal, I understand, have their lump sum and they do with it precisely what they like; the Treasury does not approve the division between themselves and their clerks, much less the division between the several clerks?—Yes, that is the general rule.

60,671. Why is that difference made?—I am afraid I am not in a position to say how it arose. I think it is mostly in cases where the officer himself, who is entrusted with this money, is anxious to have some sort of guidance as to how he shall distribute it and what salaries would be proper to be paid. I think it is a matter of arrangement in the particular case as to whether he wants any assistance to enable him to decide the question.

60,672. I suppose the Procurators Fiscal feel quite satisfied. We heard of a case where five clerks was the normal establishment of a Procurator Fiscal, but three of them went to the war, so he was left with two, and presently he got a third. What happened to his lump sum? Did he return the unused part to the Treasury, or would he still be master of the financial situation?—I think those men who went to the war would be under the general rule with regard to Civil servants who go to the war, namely, that they retain the balance of salary which remains to them; that is to say, a clerk, for example, in any public department who goes to the war receives in addition to his military pay any balance of his civil salary which exceeds that military pay. So probably the balance of the sum paid to this Procurator Fiscal would still go to the clerks, and so far as regards the rest of it to the substitutes.

60,673. You think they come under the Civil Service rule?—I think so.

60,674. (*Mr. Graham Wallas.*) At present there are a number of statutory regulations settling the powers of patronage in the legal service. For instance, the fact that the Lord Chancellor, the Master of the Rolls, and the Lord Chief Justice take it in turn to appoint clerks in the Central Office is a matter of statute, is it not?—Yes.

60,675. There are a number of other statutes regulating the minutiae of patronage in that way, are there not?—Yes, no doubt.

60,676. Do you think it would be an advantage to the public service if all those statutory regulations with regard to patronage were swept away and Orders in Council, which could be altered in accordance with experience, were substituted for them?—I see no objection, with the concurrence of the authorities concerned.

60,677. At present the responsibility of the Lord Chancellor for the various offices varies a good deal. His responsibility, for instance, in the Probate Office is much less than his responsibility in other offices, is it not?—Yes, I think that would be so.

60,678. Do you think it would be an advantage to the public service if his responsibility were made general and uniform over all the legal departments?—I think it would be more convenient, certainly.

60,679. By statute there is in most of the legal offices a senior officer—a senior registrar or senior master—who receives a higher salary and has some sort of general responsibility in the office. At present, I understand, he holds his office by pure seniority, because he is the man who has been there longest. That is not in accordance with the custom in other departments, is it?—Speaking generally, I think not.

60,680. Do you think that, from the point of view of the experience of the Treasury, it would be an advantage that the direct head of an office should be appointed for some other reason than seniority?—I think, probably, it would be a good thing.

60,681. During the nineteenth century there has been a considerable transfer of administrative work from the Courts to Government departments. For instance, the administration of charities, bankruptcy, and to a certain smaller degree the dealing with lunatics, have been transferred from the Courts to Government departments?—Yes.

60,682. So far as you know, has that transfer resulted in advantage to the public service?—So far as I know, yes.

60,683. Do you think that that transference could be carried further, and, in particular, a good deal of the administrative work in the Probate Registry at Somerset House could be transferred to the Inland Revenue Department?—I do not think that would be an advantage to the public service. I doubt even whether it would be practicable.

60,684. At present the greater quantity of administrative work which arises on the passing of property by will is done in the Estates Duty Office?—No, I think not. Their business is solely the collection of revenue; they have nothing to do with administration whatever. Their sole business is to ascertain the amount of duty payable.

60,685. But that is a longer business and requires more careful examination of the will than the work done in the Probate Office in ordinary cases?—I understand that that is done on what is called an Inland Revenue affidavit, and that is just the one point of contact between the work done in the Probate Registry and the work done in the Inland Revenue Department. All that is done in common, practically, is that the registry uses its machinery to transmit the Inland Revenue affidavit to the Inland Revenue Department with a view to payment of duty before administration is granted, but there is no overlapping of functions, and the functions of the two departments are entirely distinct.

60,686. You do not think there is any work done in the Probate Registry of a purely administrative type involving no judicial decisions which might become part of the ordinary work of a department of the Government service?—No; I do not think there is any case for a transfer.

60,687. In a number of other Government offices there is a considerable amount of professional work which is done with the assistance of ordinary administrative officials. Take the Medical Department of the Local Government Board; you have a large body of professional men there, and they work with the assistance of ordinary Civil servants?—Yes.

60,688. And it is not there held to be desirable that those Civil servants, because they are working under or in connection with professional men, should have had

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quasi professional experience?—I am afraid I do not know enough of the details of the work which is done for these medical officers to express an opinion.

60,689. But if it were claimed that all clerical posts in the Medical Department of the Local Government Board should be filled by persons who had had a certain amount of experience as messenger boys to a doctor and in sticking labels on pill boxes and so on, that claim would be rejected by the Treasury, would it not?—So far as I know, assistance of a technical kind should not be necessary.

60,690. And unless the technical requirements of the post are quite serious, it should not be made a professional post?—I think not, unless it is quite necessary that it should be.

60,691. Have you ever thought that that would apply to the existing system by which not only are there definitely professional posts in the legal departments, but the ordinary clerical work is done, not by people having definite professional qualifications, but by people who have spent some little time in a purely subordinate position in a legal office?—I am not quite sure that I follow the question.

60,692. Have you considered whether it is desirable that the existing system should continue, by which it is required that those who do clerical work in some of the legal offices should have, not professional qualifications, but a certain amount of experience of subordinate work in a professional office?—I think that would be mainly a question for the head of the department. I am afraid I do not know enough about the details to say whether a subordinate clerk need have any legal knowledge or not. I should doubt it myself, but my opinion is not of any great value in comparison with that of the persons responsible for working the offices.

60,693. Finally, I want to get from you certain facts as to the appointments in the Supreme Court Pay Office. Is it true—and perhaps you will check it, if you have not the facts before you—that the last two appointments of Assistant Paymaster-General have been Mr. Rowe on 1st October 1900, and Mr. Paulton on 23rd December 1909; that in 1900 Parliament was dissolved on the 25th September, Mr. Rowe's predecessor resigned on the 30th September, and Mr. Rowe (who had been an official in the Central Conservative office) was appointed on the 1st October; that in 1909 Mr. Rowe resigned on the 14th October, Parliament was prorogued on the 3rd December, and Mr. Paulton (who had been for many years a member of the then retiring Parliament) was appointed on the 23rd December?—I am afraid I have not the details, but I will take them from you.

60,694. Perhaps if they are found to be wrong you might check them in a footnote to your evidence?—Yes, I will.

60,695. As to the Deputy Assistant-Paymaster, Mr. Sharp resigned on the 4th December 1905, on the next day the Government resigned, and upon that same day Mr. Longley was appointed—on the 5th December?—No doubt you are right, but I will certainly look it up.

60,696. (Mr. Coward.) The Chairman commenced this morning by asking you a question on the present organisation of the Judicial Offices, and I gather you said that if there were any means that could be suggested for the more economical working of the offices the suggestion would be made to you?—I should hope that that would be the case. Any suggestion of that kind would be welcomed.

60,697. Have you ever had such a suggestion made. Can you remember any such case?—I am afraid I cannot say off-hand.

60,698. You cannot remember any case?—I have not been responsible for that particular part of the office long enough to say for certain.

60,699. Would not it have come before you?—There were considerable changes made in my early days in the Treasury, round about 1890, or so. There were a great number of committees, as a result of which changes were made.

60,700. Changes were made in consequence of inquiries by committees, but I am speaking of recommendations from those whom you would consider responsible for the working of the offices?—No doubt

there have been recommendations from Sir Kenneth Muir Mackenzie.

60,701. Yes, but I am speaking of the heads of departments. You will see that at the Central Office there are 76 people in the office; in the Chancery Division 69, and in the Probate Registry 125. That makes altogether 270. So that it is a very large office, and the three branches together employ a large number of people. I want to know whether anybody in the Treasury has ever had a recommendation from an official in command of those offices with regard to their more economical working?—I certainly do not remember any. I could not say that there have not been any, because that would require a considerable amount of research.

60,702. I think probably you would have heard it, had there been any?—That would depend upon whether I was doing the work for the time being.

60,703. It may be that there have not been, and I should rather assume that there have not been any such recommendations. If not, that might arise from one of two causes; either because the offices were so efficiently worked that there had been no reason for any recommendation, or because there was nobody in authority who ever took the trouble to do it?—That is possible, no doubt.

60,704. I may say, personally, I have been trying to ascertain, while we have been sitting here a great many days, who is in authority at any one of those offices who would take control and ascertain what was going on in the office and see whether it could be more economically worked, but I have not been able to get an answer. Therefore, I think, somebody suggested that there should be a committee whose duty it should be to attend to appointments and to supervise offices of this kind?—I should see no objection to a committee for such a purpose, or to the staff of the Permanent Secretary of the Lord Chancellor being strengthened in order to enable him to deal with it.

60,705. Do not you think it would be a great advantage?—So far as the Treasury is concerned, I think we should be glad to see any further means of control provided.

60,706. Taking, for instance, the Probate Registry, there are 125 people in that office, most of them receiving very substantial salaries. The question is whether those people are properly employed. If you found that, instead of 125, the work could be perfectly well done by 80, it would make a very great deal of difference to the amount of money the Government would have to pay. That is clear, is it not?—Certainly.

60,707. Therefore, you would say that some means of testing the sufficiency of a staff, and so on, would be very advantageous?—It would be very welcome to the Treasury, I can assure you.

60,708. (Sir John Kempe.) With reference to the question of Treasury control, the Treasury control depends very considerably upon their control of the Estimates under the Act of Parliament which gives them such control?—Yes, mostly it depends on the control over the Estimates.

60,709. That is to say, it can enforce anything it wants done, because it has behind it the power to diminish the Estimates?—Yes, in theory at least.

60,710. In the case of a disagreement between the head of a department and the Treasury, how is it settled?—It depends upon the particular case. There are cases which can only be settled by a decision of the Cabinet. In many other cases it can be settled by inquiry of some kind which is agreed between the head of the department and the Treasury. In the case of ultimate disagreement there is no tribunal so far as I know except the Cabinet.

60,711. In that case, is the head of the department or the Treasury responsible to Parliament for the staff?—The Treasury is responsible for presenting the Estimates to Parliament, but I think under the usual practice the head of the department itself is responsible to Parliament for what is in that Estimate so far as the administration of the department is concerned.

60,712. That is to say the power of Parliament is to put on the screw by a motion to reduce the salary?—

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By a question in the House or a motion to reduce the salary.

60,713. At present there is no direct representation in Parliament of the legal departments, and all the Lord Chancellor has to do with the Estimates is the Vote of his salary as Speaker of the House of Lords. His legal salary is on the Consolidated Fund?—Yes.

60,714. That is to say, all the pressure that can be put on the Lord Chancellor is through the Vote to him as Speaker of the House of Lords?—And through the responsibility put upon him by the Judicature Acts.

60,715. That is to say the ordinary responsibility of an Act of Parliament?—Yes.

60,716. It does not depend on the Votes in that case?—So far as the salaries on the Consolidated Fund are concerned, of course not.

60,717. I suppose you would not be in favour of more direct representation of the legal departments in Parliament. It has been suggested that there should be some Minister responsible for the legal departments?—The practice, I think, is for the law officers of the Crown to answer questions and deal with matters relating to the legal establishments.

60,718. But there is no direct responsibility; they get their subjects up and answer questions, but there is no direct responsibility?—It is an understanding—a convention. I do not know the origin of it, but it is the practice.

60,719. Would the Treasury think it a good thing to have a direct representative in Parliament of the legal departments?—I doubt very much if it would be practicable. If it were practicable, no doubt concentration of responsibility would be a good thing.

60,720. It has not been considered by the Treasury?—I do not remember it having been brought forward.

60,721. How would the recommendations of a committee be enforced? You appoint a committee; you may accept their recommendations or not, as the Treasury feel inclined; there is no one to back it up and to enforce responsibility as to accepting the recommendations of a committee?—No, it is within the discretion of the Government for the time being to adopt the recommendations of a committee or not.

60,722. That is to say the general arrangement of the legal departments is in rather a fluid state compared with other departments; there is not the same responsibility and there is less power of control in the legal departments than in other civil departments?—I think, practically, there is control through the Permanent Secretary to the Lord Chancellor, but I admit it could probably be improved.

60,723. With regard to the age limits, you are inclined to think that the limit of 65 might be applied to the legal departments, but not to the higher offices. I suppose one reason for that distinction would be that there is no question of promotion which comes in. The age of 65 is imposed, I suppose, partly in order to improve the flow of promotion?—Undoubtedly that is one element.

60,724. And probably if not for that you might have had a higher age for the Civil Service generally?—I think the general opinion would be that 65 was long enough really, after a length of service which must be, in ordinary cases, 40 years. I think probably there would be no general suggestion that the age should be extended beyond 65.

60,725. You spoke of the experience of an officer in a legal department being valuable, but you would not consider experience in a legal department more valuable than experience in a civil department?—Not except in the case of actual judicial work.

60,726. The higher officers, in fact?—Yes.

60,727. With regard to the contributory scheme for pensions which you were speaking of, if a contributory

scheme were settled your view is that it should be carried out by an outside body and not by the Treasury. The Treasury would not make a scheme even if it was entirely contributory; they would not run the scheme?—There are very strong objections to that, in my opinion.

60,728. You said that all the Treasury would do would be to facilitate the collection of the contributions through the salaries paid and give advice?—Exactly.

60,729. Those two things only?—I am not aware of any other way in which they could assist; but if there was any other way which did not involve the expenditure of money no doubt it would be considered.

60,730. The Treasury help the Civil Service Insurance Society by deducting all the premiums from salaries?—Yes.

60,731. Would you do the same sort of thing for a contributory scheme of pensions?—Yes.

60,732. Would you be inclined to favour the Civil Service Insurance Society by recommending any department which wished to have a contributory scheme to go to the Civil Service Insurance Society?—I think it is rather difficult for the Treasury, or the Government, to recommend one particular society, because I think questions of favouritism are quite certain to be raised. The Civil Service Insurance Society works, I understand, through the North British and Mercantile Insurance Company, which means, in practice, one company, and I think the Government would scarcely undertake to recommend one company. For one reason it would be a kind of guarantee that that company would be solvent.

60,733. There is a separate body to administer the Civil Service Insurance Society. It is true they work through the North British and Mercantile, though there is a strong representation of the Civil Service; but you would not consider that sufficient to warrant you in treating them separately?—No, I think not.

60,734. (*Mr. Matheson.*) I want just to be clear with regard to one point as to part-time employés. I understand from you that it is the practice of the Treasury not to grant pensions in the case of part-time employés?—Yes.

60,735. But I was not quite clear whether you thought it would be impossible to apply a pension system, as far as the working of it went, to part-time employés?—I think it would be, in practice, impossible, and very undesirable.

60,736. Would not grants in proportion to salary be possible?—In what way?

60,737. A pension proportionate to the salary would practically correspond to the services rendered, would it not? You have a man earning a part salary for a part service. Is it impossible to adjust a pension scheme to that?—I do not say it is impossible, but I think it is not desirable that a part-timer should be included in any scheme of regular pensions. I am not prepared to say that in the case such as has been mentioned, of a system worked through insurance offices, those part-timers might not contribute out of their salaries if they thought fit, but I do not think the State could suggest anything in the shape of a pension scheme for part-time persons.

60,738. Your objection is really more that it is undesirable than that it is impracticable?—I think that so far as State pensions are concerned it is really impracticable; but for other systems, not State systems, I think, perhaps, it is quite possible. I might add, perhaps, that the Committee on the Secondary School Teachers, to which the Chairman referred, thought that scheme should be confined to whole-timers. That is the latest experience I have of that particular case coming up.

The Right Hon. SIR SAMUEL THOMAS EVANS, P.C., K.C. (President of the Probate, Divorce, and Admiralty Division), called and examined.

60,739. (*Chairman.*) You are the President of the Probate, Divorce, and Admiralty Division?—Yes.

60,740. The first point on which the Commission would wish to know your views is the question of

appointments in your division. At present, all appointments, both in the Principal Registry and in the local registries are made by the President of the Division?—Yes. The clerks in the district registries are

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appointed by the registrars themselves subject to my approval, otherwise the appointments are all in my hands.

60,741. The suggestion has been made by witnesses of weight, that it is desirable that all legal patronage should be in the hands of a Minister responsible to Parliament. They have suggested, therefore, that appointments in the Probate Division should be transferred to the Lord Chancellor. A further suggestion was made that the Lord Chancellor should be assisted in making his appointments by a committee, who should make recommendations with regard to the candidates, and that the Lord Chancellor should appoint after considering the recommendations of the committee. In the first place, will you give us your opinion as to the suggestion that the patronage should be transferred to the Lord Chancellor?—Well, he would have to act, of course, upon the knowledge imparted to him by other people or upon the recommendations of the committee you have mentioned, because he could not possibly have any personal knowledge of the various applicants for these many offices. So far as my division is concerned I do not see any reason for a change, and I do not think the change would be for the better. The head of my division, whoever he may be for the time being, is responsible, and it is a division compact by itself, and he is able to control the appointments so as to have the men most fitted to do the work in the division. I do my very best—and my predecessors did before me, no doubt, and my successors will after me—to get the right man. I see no advantage in a change myself. Upon the question of the appointment by a Minister ultimately responsible to Parliament, that is a very big question. I was in Parliament for many years, and it would be a very sorry thing, I think, that a Minister should be catechised, as he might be catechised, upon every appointment to every single office in the legal service.

60,742. The Lord Chancellor is at present in that position as regards the large number of appointments which he makes?—Yes, and is it suggested that he should always be the Minister responsible, because they do not ask so many questions in the House of Lords as in the House of Commons?

60,743. The suggestion was that he should be the Minister responsible for all appointments in the legal departments?—But was not it suggested that somebody should be also answerable in the House of Commons?

60,744. That was a further suggestion?—I do not see that the work would be done better if the Lord Chancellor were ultimately responsible instead of the President of the Division. In many respects I should like to be relieved of all patronage; it is difficult, and sometimes very disagreeable, but looking at it from the point of view of the efficiency of the office, I do not think the change suggested would be for the better.

60,745. Looking at it from the point of view of the control which the President exercises over the offices of his division, do you see any serious drawbacks to a change?—No, I see no serious drawbacks. I should assume that the Lord Chancellor in such a case would deem it desirable to consult the President of the Division.

60,746. If the further suggestion of a committee to examine the merits of the candidates were carried out, it was proposed that in the case of each department the head of the department should be a member of the committee, or should be represented on the committee, so that the department would in that way have a voice in the appointment?—Do you mean the head of the division—the person in my position, for instance—or the head of a department in the division? I, of course, have the three branches—Probate, Divorce, and Admiralty. The Admiralty is quite distinct. The Probate and Divorce work is carried on in Somerset House, and, so far as the probate work is concerned, in the District Registries too; but the same officials attend to the divorce part of the work in Somerset House as attend to the probate part of the work.

60,747. I think the idea was that the representative on the committee would be the head of the department and not the head of the division; that is to say, in the case of Probate appointments, I presume, it would be

the senior registrar?—Yes; and in the case of the Admiralty the senior registrar. Yes, I think it would be very advisable, if there was such a committee, that a representative of the department should be on it.

60,748. In that case the representative of the department would naturally represent the views of the President of the Division?—Yes, he would.

60,749. In the case of vacancies for clerks in the Principal Probate Registry, is it your practice to publish or notify vacancies in any way?—No. It is hardly necessary, because the applicants are very numerous. Whether there are vacancies or not I have constant applications from people who think they are fit and competent, and from other people who are interested in the younger men, who say: "Will you kindly remember So-and-so as a candidate for an appointment when it falls vacant?" In all cases I keep a list of such people, and where I think there is a possibility of finding a suitable man I communicate with him when a vacancy arises. I ask for recommendations from various people; candidates themselves have a certain number of questions which they have to answer, and they have to send testimonials. In some cases I have known the people myself, and then, of course, that would not be necessary. I always have an ample list from which to choose when a vacancy occurs. The applicants, as you know quite well, are much more numerous than the vacancies.

60,750. Does anybody interview the candidates personally on your behalf?—Sometimes, indeed, very often I see them myself, unless I am absolutely satisfied with the people who send testimonials, not merely satisfied that they know the candidates, but satisfied myself with the people who give the testimonials. If they are personally known to me I might appoint a man without seeing him, but in most cases I should see him. My secretary sees him first and I see him afterwards.

60,751. Have you considered whether open competition would be a suitable method of recruiting clerks for the Principal Probate Registry?—Followed by appointment of the one who is first in the competition?

60,752. Yes?—I do not know that I have considered it particularly. That is the rule in the Civil Service generally, I think. I have no objection to it.

60,753. That system of recruitment applies to far the greater part of the general Civil Service?—Yes; to a certain extent I act upon that principle in this way: supposing there is a vacancy, I almost always nominate two, sometimes three, and then when nominated they go up for examination, and in each case I give the appointment to the one who is highest. To that extent, therefore, I act upon that principle.

60,754. Is that a Civil Service examination?—Yes, the ordinary Civil Service examination they have to pass.

60,755. In fact, a form of limited competition?—Yes, that is a limited competition. I suppose the other method would involve examinations at stated times of all the applicants whose claims, or whose applications, might be considered. I have no objection to it in principle; but, again, I do not think it would effect very much improvement, if any. Would you suggest in that case that the candidates for offices in my Probate, Divorce, and Admiralty Division should form a class by themselves to be examined, or that they should form part of a much more numerous class for the Civil Service generally?

60,756. If competition were adopted for, say, the Central Office, and some of the other offices of the Supreme Court as well, then probably the convenient way would be to have a single examination, and a specified number of vacancies would be open for competition in each of the divisions or departments. There would be no impossibility in filling vacancies in the Central Office and in the Principal Probate Registry from the same examination, and the larger the number of vacancies it was possible to offer at one examination, probably the better the field of competition that would be secured?—Then it would be one big class for all the legal offices.

60,757. Yes; or for such of them as were included in a scheme of competition; it would not necessarily

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apply to all?—I have no objection to it in principle at all, but I think there is a good deal to be said for the opinion held and expressed before the Commission by my registrar, Mr. Musgrave. You may know a very deserving case, a case of a man who is quite efficient for the work, and whom you might like to appoint, but who might not be very good at an examination. There are some people who are better in an examination room than outside; there are numbers of others who are very much better outside than in an examination room. It would limit the choice in that respect. I think a certain amount of freedom might be left to the person responsible for the appointment ultimately.

60,758. (*Mr. Coward.*) A man who is good at both is the better man of the two?—Good in the examination and good outside—yes; there would be no difficulty at all.

60,759. He is the better man, you would agree?—Yes, I think so, *prima facie*, certainly. I am not against examinations; on the contrary, I am in favour of them as tests.

60,760. (*Chairman.*) We have been told by several witnesses, I think Mr. Musgrave was amongst them, that professional knowledge is not necessary before entry into the Principal Probate Registry?—No, I do not think it is. They acquire the professional knowledge very quickly; they only get in at the bottom. I am not talking about the registrarships, but about the clerkships. They come in at about the age of 20, 21, or 22, and if they are generally efficient they learn very quickly.

60,761. So that there would be no objection from that point of view to a system of competition in subjects of general education?—No; the people whom I have appointed have, hardly any of them, I think, had any professional experience. They have not been solicitors' clerks so far as I remember. I have a list of them here.

60,762. (*Mr. Coward.*) You are speaking of the Probate Registry more especially?—Yes, the Probate and Divorce up to now. I understand you do not ask questions about the Admiralty because it has been fully laid before you by Mr. Roscoe who knows it very well, and I am assuming that the questions put to me now are about the Probate and Divorce Divisions.

60,763. I thought so, but it was not so stated?—That is so.

60,764. (*Chairman.*) Turning to the District Probate Registrars, we have been told that the majority of them have previously been clerks in the Principal Probate Registry—I think 26 out of 40 were the numbers given. Is it your view that, speaking generally, the clerks from the Principal Probate Registry are the most suitable persons to appoint to be District Probate Registrars?—I do not quite take the view that they do in Somerset House about that. I have appointed several from Somerset House, but I think also solicitors in the locality have a right to expect these appointments sometimes. I have appointed to places, for instance, like Birmingham, a solicitor on two occasions. I made it a necessary condition of their appointment that they should devote the whole of their time to the work, because in a place like that I think they ought to, and in both cases they submitted to that condition. One was Mr. Moore-Bayley and the other was Mr. Grainger. I was asked to do so by the branch of the Incorporated Law Society, or such local law society as exists in Birmingham, and I was thanked by them by a resolution for appointing a solicitor—not for appointing the particular man. The man in Somerset House, no doubt, knows the work thoroughly well and is competent, but I do not regard it as any right of his to expect to be appointed in every case to a local registry. I think many of those cases ought to go to local men. The argument which they adduce is this: "Promotion is very slow in the registry, and if you do not appoint always from the registry we do not get any advance or improvement," and so on. That is being put forward from time to time and I do consider it, and I think in several cases recently I have promoted men from the registry to some of the very biggest districts. The last one I appointed was my registrar, Mr. Registrar Hardy, who was appointed to Exeter, where the

work is not very hard, but where the salary is very considerable.

60,765. I suppose that in all cases where district registrars are appointed from the Principal Registry they are restricted from carrying on other business?—Yes, they are.

60,766. What is the position when a local solicitor is appointed? Is he restricted?—In every case in which I have appointed local solicitors or barristers I have required them to give up their practice entirely, either as solicitors or at the Bar. I appointed a barrister to one place, I think, shortly after I was appointed myself, and he asked whether he could practise or sit at Quarter Sessions, and I said, "No; you must give the whole of your time to this work."

60,767. Are a certain number of cases still left where private practice is allowed?—I should think so; but I really do not know. I have not inquired. I should think it is so in a considerable number of cases. When vacancies occur, a man very often says: "My father was the registrar here for very many years," and sometimes, "My grandfather was also registrar here," and I should like to continue it in the family," and I have looked in the Law List and found that they were clerks to magistrates and to County Councils, and positions of that kind. I should think that is so in most cases where the registrar is a solicitor.

60,768. Is it your view that there should be a restriction on private business in all cases?—That is my view, if it is possible. Some of the registries are very small however.

60,769. In some of the very small registries a man would have very little to do if not allowed to do anything else?—Very little.

60,770. It would be hardly practicable or desirable to restrict him to the work of the registry?—No. In such cases I should probably come to the conclusion that it would be better to appoint somebody from Somerset House on that ground. I very likely could not get a solicitor to take it. I think in most cases, as a principle, I should like the work of the Probate registries in the districts to be performed by people who devote the whole of their time to the work. The question of small registries raises the larger question of redistribution.

60,771. Is it your view that a redistribution of registries would be advantageous?—I think so, if it is one complete scheme. There have been occasionally applications for the extension of a district where there has been an extension of boundaries. For instance, in Birmingham, not very long ago, they extended the boundary of the city, and in a part of the Bill there were provisions for extending the area of the Probate jurisdiction. That, of course, raised questions on the part of those from whom those areas were to be taken, and they pressed me very hard to say that they ought not to be interfered with; but I said: "The only thing you ought to consider is the public interest—that is all." And, I think, if, in the public interest the area of a particular city is extended, there ought also to be a re-arrangement of area of the Probate Registry. But, except in such case where there is local legislation of that kind by a special Act of Parliament for the district, it cannot be done when a particular vacancy occurs, but it must be a scheme as a whole; I am satisfied of that.

60,772. At present the situations of some of the registries certainly do not coincide with the centres of population?—No; because, of course, they were the old diocesan towns. That is the reason for that. For instance, the Llandaff Registry, which I know very well, is in the City of Llandaff. Whether it has been incorporated by Cardiff now I am not quite sure; Cardiff tried to get it several times, and Llandaff said: "No, we are a city, and you only a town." Cardiff has become a city since then, but the registry is at Llandaff. It does not matter much to Cardiff, as it is quite near—within a mile or two; but the registry is far away from Swansea and populous places in the Rhondda Valley and other parts of Glamorganshire, and from Merthyr.

60,773. Then you would be in favour of a comprehensive scheme of re-arrangement?—I should.

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60,774. It was suggested by one witness that the territorial limits of the areas of the local registries should be abolished altogether, and that everybody should be at liberty to prove wills wherever he liked?—There is no difference in connection with work of a similar kind. Your County Court registries are restricted in area and your High Court district registries are restricted too. I should prefer, I think, that there should be delimitation of area for a particular registry, but not necessarily confined to counties, because two counties might be combined very well and other counties might be divided up.

60,775. It was pointed out that in many cases the territorial limits worked very inconveniently. An instance given was of a man who works in Manchester or Liverpool, and whose business is there, but who lives in Cheshire. If his will is to be proved in the district registry his executors have to go to Chester, whereas it was suggested that it would be a convenience to men of business if the work could be done at Liverpool or Manchester?—I should think inconvenience of that kind might be rectified by coming up to Somerset House to the Principal Probate Registry.

60,776. Would there be any serious objection to the abolition of the territorial limits?—I suppose it would work out all right in practice. Nobody from Newcastle would go down to Lancashire to prove a will; but I do not think there is any inconvenience in having a particular area for a particular registry.

60,777. But would not the result of abolishing the limits be that everybody would take a will to be proved wherever it was most convenient to do so?—That may be. I see no great objection to it myself, but I suppose you have to pay some attention to local feeling in regard to those matters.

60,778. (*Mr. Coward.*) That is the trouble?—It always is a trouble. If you want to remove an assize from a very inconvenient place you always have these old historical sentiments arising and giving trouble.

60,779. I have been told by the law officers of the Crown that it would be impracticable. We had all this matter very seriously discussed on the Commission on Legal Delays, and when the circuit system or the case of the assizes was gone into very fully, the law officers thought it would be impossible to make a change?—Yes. That requires careful consideration. I have not thought of it very much. I have rather assumed, I expect, that there would be a definite area for a particular registry. I really do not see much inconvenience in it myself, and I do not see very great advantage in allowing them to be open to anybody.

60,780. (*Chairman.*) Another question which has been raised is, whether it would be advantageous to combine, in more places than at present, the Probate registry and the High Court registry?—That is difficult, too. I am aware of the recommendation of an old Committee or Commission, some time ago, which is brought to my attention every time there is a vacancy, when they say, "Cannot you appoint the registrar of the County Court to do this work, too?" In many places the work of the Probate registry is very heavy, and in those places the work is very heavy also in the County Court registry and the High Court registry. I see no reason why they should be combined. There are various difficulties in the way. Intimately connected with that is the question of salary. If the work could be combined with the other work in the registry, unless you reduce the salary in respect of one or other or all the offices, all you do is to accumulate a large salary into the pocket of one man. There is also the difficulty of appointment. In such a case, supposing the County Court registrar is also to be the district registrar of the Probate Court, the appointment would go from the President of the Probate Division, and would practically be in the hands of the County Court judge, because he is the person who really appoints, although it requires the concurrence of the Lord Chancellor to appoint the registrar. There is only one case in which they have been combined, if I remember rightly, and that is in Manchester. There are two joint registrars there. What happened there was, they combined the two offices. I do not know how they divide the work between them, but you have the man who used to

be the County Court registrar, and the other man who used to be the Probate registrar, as joint registrars of the joint registry.

60,781. (*Mr. Coward.*) Yes; one does the common law work and the registry work and the other the Chancery work?—I do not know how they divide the work amongst themselves.

60,782. Mr. Mais is one of the joint registrars?—Yes, I think he has been here as a witness.

60,783. (*Chairman.*) Any change in that direction would be facilitated if the suggested transfer of patronage to the Lord Chancellor were carried out?—I think any change of that kind ought to be part of a big rearrangement of the registries generally. The Lord Chancellor has nothing to do with the appointment of a County Court registrar except to sign his name. That is all it practically comes to. He trusts the County Court judge. The County Court judge comes into personal communication with his own registrar, and knows the capability of the man and that he is the kind of man he would like to appoint; and he says: "I would like to appoint this man subject to your concurrence." I had a great deal to do with County Courts at one time, and I do not know of a single case where the County Court judge's appointment has not been approved by the Lord Chancellor.

60,784. It has been suggested (and I think a clause to the effect was actually put into a Bill which was introduced into Parliament) that where the County Court and the High Court registries are combined, the appointment should be in the hands of the Lord Chancellor, and not in the hands of the County Court judge. If that change were effected it would solve a great deal of difficulty?—I think myself that that would be rather hard on the County Court judge. The Lord Chancellor never sees the registrar. The County Court judge has got to work with him; he is under him the whole day when he sits. If I were a County Court judge I confess I should like to be able to appoint my own registrar.

60,785. Another question which has been raised in connection with the district probate registries is the matter of what is termed "agency business," and the fees which are charged for that. You are acquainted with the system to which I refer?—Yes.

60,786. Are you prepared to express an opinion with regard to that system?—Yes, I am. I do not like the system at all. It originated, I think, many years ago when the change was first made. People who were then in office said: "We have been charging certain fees," and it was thought hard to deprive them of those fees. My own impression is that it was never the intention to continue that system beyond the life of those who were then in enjoyment of the fees earned. There is no list of fees; I have no reason to suppose that they vary very much in one registry from those charged in another, but there is nothing that binds them at all, and I should like to see the system put an end to if it could be.

60,787. (*Mr. Boutwood.*) Does that mean that each local registrar charges what fees he likes?—Yes. So far as I am aware I do not think he is controlled by anybody. They have a District Registrars' Association, and I daresay in practice they practically charge similar fees or the same fees; but I do not think there is anything at all to bind them. In many cases—indeed, in most, I think—there is some sort of private arrangement between the registrar himself and his chief clerk by which the registrar takes a certain percentage—two-thirds, or whatever it may be, and gives one-third to his clerk. Now I do not see any advantage at all to the public in that. The public ought to know exactly what fees can properly be charged by law against them when they proceed to prove their wills.

60,788. (*Mr. Coward.*) The fact is, if you walk into the registry and ask a question you have it answered for nothing, but if you write a line and ask the same question you pay 3s. 6d., or whatever it is?—Quite so. There are cases where the agency fees exceed in amount the salary of the office. I have been thinking myself of sending to all the registries to require them to make a return to me of the agency fees which have been received in the registries for the last five years. In

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some cases I have asked—but that is for a particular appointment when I have to appoint to a particular registry—"The salary is so-and-so; please let me know the fees you have received under this agency business in the last five years," and often I have ascertained that the fees exceed the amount of the salary. I do not think the system is a good one. I am against it.

60,789. (*Chairman.*) If the system were abolished, in the sense of prohibiting the charging of fees, would the business still be transacted by post for the public as it is now?—I think it might very well be. I do not see why it should not. Of course, you could not abolish the fees in the case of the present registrars, I suppose. I am not suggesting that for a moment. If a man whose salary is 400*l.* has been having another 450*l.* in fees you could not take the 450*l.* from him and leave him with his 400*l.*; it would not be fair. I am assuming that the present people who enjoy the benefit of the system would have to be arranged with in some way.

60,790. But assuming that due regard is paid to the interests of the present holders, you would still, for the convenience of the public, require the registrar to do business by post in the way he does now but without fees?—I should. These fees are very often charged in cases where solicitors are acting for the parties. If a solicitor, for instance, at Neath, corresponds with the office at Llandaff for his client, fees are charged in such a case. That, I think, is disadvantageous to the public. I am told that the agitation, if I may so call it, for the abolition of that system comes from solicitors. I do not want to abolish the system in order to allow solicitors to make further charges against their clients. What I want to do is to abolish the fee system in the interests of the public.

60,791. (*Mr. Coward.*) I do not think the solicitor would make any more. The solicitor situated away from the registrar's office writes to the registrar and asks him to tell him his business—I should think that is what it is. You mean to say that the solicitor who is practising would charge a fee for that letter?—I am not at all sure that he does not.

60,792. I should be sorry to say that he did not. I should think it is likely?—I do not know. I have done some of this work myself, only it is so long ago that I do not remember, and I cannot give the details.

60,793. I have not done any such work, and I do not know about it?—I do not mean at all that they do it knowing that they ought not to be doing it; they may think it is part and parcel of their work if they do it; instead of running up by train and spending a day, they may say: "We will charge a letter instead." They may think it a proper thing to do.

60,794. If a proper question to ask, it would be a right thing to charge for the letter, but if he is asking to be told a thing he ought to know himself he ought not to charge for it?—I only say that I am against the system, because I think it ought to be put an end to in the interests of the public.

60,795. (*Chairman.*) In the Principal Probate Registry no business is transacted by post at all?—I believe practically none.

(*Mr. Coward.*) No; they will not answer a letter.

60,796. (*Chairman.*) Would it be advantageous that the public and the profession should be able to transact business by post?—I do not see why they should not.

60,797. It might, in some cases, be a considerable convenience?—Yes, I think so. I have spoken to one of my registrars, a very experienced man there, in favour of the correspondence system with the District Registries, and he told me that the system in London was very different, and in London it need not be by correspondence, because London is one homogeneous place; I pointed out to him that parts of London were much further away from Somerset House than some parts of the country are away from a District Registry where they transact their business by correspondence. That is obvious.

60,798. And also there is provincial business which comes to the Principal Registry?—Yes.

60,799. (*Mr. Coward.*) At Lewes there is a District Registry, and there is none between Lewes and here?—Yes, quite likely; and the amount of work at Lewes is not very great. I see no reason at all why there should not be facilities rendered for carrying on the business by correspondence. There may be disadvantages; it may create delay, and, of course, information in letters may be incomplete; whereas if there is an attendance at the registry at Somerset House, a question of the official in charge, particularly in the case of a personal application, might at once procure the necessary information and the thing is done. Correspondence might cause delay, but where there are competent people dealing with the matter, either through solicitors or people acting for themselves, I do not see why there should not be facilities rendered for correspondence work.

60,800. (*Chairman.*) A question, which applies to the legal departments in general, has been raised, and that is the question of a fixed age for retirement. Do you think it would be an advantage to have in the departments under your control a fixed age for retirement?—That is a big general question, is it not? The clerks in the District Registries are not Civil servants; the clerks in Somerset House are. There would have to be a distinction, I assume, therefore, between those two classes of clerks. Whatever the rules in the other parts of the Civil Service are, I do not see any objection to their being applicable there to the clerks at Somerset House. Sixty-five, I believe, is the age for retirement generally?

60,801. Yes, 65 for the Civil Service.—It seems rather early. I think, in the case of clerks, such a limit, whether 65 or 70, might be a good thing, because very often if people remain long enough to become really incompetent, the person responsible does not feel inclined to be very harsh, and say: "Now you must go," though it might be very advantageous to the public service that it should be so. I suppose I ought to be hard-hearted and say to anybody who has been there long enough: "In my opinion you had better clear out," but you know quite well one pauses before one does that. On the other hand, with regard to the chief officials, the registrars, I think considerable latitude ought to be left to the people responsible to extend the time. I can quite understand that I should be very sorry to lose from the registry—either Somerset House or elsewhere—an official merely because he was 65. Mr. Musgrave is perilously near 65—I think he is 62—and I think it would be very hard to compel me to separate from him and to lose his services, which are very valuable, merely because he attains the age of 65.

60,802. In the Civil Service generally there is power, where retirement at 65 would be to the injury of the public service, to prolong the service to the age of 70?—Yes; but I should prefer a greater latitude than that. How can you say that it is in the interests of the public service? I dare say another man whom you might appoint would do equally well, but this man is doing well enough, and you know his ways, and he is there, and you think him an efficient public servant.

60,803. (*Mr. Coward.*) It is a very difficult question?—Yes; I think latitude ought to be given to the person responsible. In other words, I ought not to lose a man's services when he attains the age of 65. I ought to be competent to say that this man has rendered good service and ought to continue.

60,804. (*Chairman.*) You would put the onus of decision in the other direction. At present, if a man is not competent, you have to decide that he is to go?—I forget the words. I think they say they may continue if it is to the benefit of the public service.

60,805. In special cases the Treasury may, at the instance of the head of a department, extend an officer's employment for a further period not exceeding five years "on being satisfied that such officer's retirement at 65 would be detrimental to the interest of the public service"?—How can you say that the retirement of a man at 65 is detrimental to the public interests if he is still capable of doing his work? I should say: "Unless the head of the department for good reasons would like to continue his services."

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60,806. Would you be content to have an ultimate limit of 70 in all cases?—Yes. I think three score years and ten, perhaps, are enough.

60,807. What exactly is the position as regards the control of the numbers and salaries of the departments of your division?—I believe in my division—I do not pronounce upon it—it depends upon the Lord Chancellor himself.

60,808. Is that regulated by Section 84 of the Supreme Court of Judicature Act, 1873?—I am not quite sure whether it is under that Act or under the Act constituting my division. There has been no change in my time. Practically, the Lord Chancellor does nothing except to acquiesce in an appointment by me of a registrar either at Somerset House or in a district after a certain vacancy. I cannot appoint a probate registrar in the country within a month of the decease or retirement of the last one without the concurrence of the Lord Chancellor and the Treasury. That is very often inconvenient, but I am bound to say that when I have asked that an appointment should be made at once they have been good enough to say: "Yes, we are willing." After a month, curiously enough, if nothing comes from the Lord Chancellor or the Treasury, I can appoint without reference to either of them.

60,809. That is for the purpose of giving the Lord Chancellor and the Treasury the opportunity of considering whether the post is necessary?—I assume so.

60,810. But supposing any change is required, say, in the number of clerks employed in the Probate Registry?—Yes, or in the classification.

60,811. Yes, or in the salaries, what is the procedure then?—I think it rests with the Lord Chancellor, the Treasury, and myself.

60,812. The Lord Chancellor and you in concurrence regulate it with the sanction of the Treasury?—Yes; because the Treasury come in on the question of salaries.

60,813. There appears to be a provision in Section 84 of the Act to which I referred requiring "the concurrence of the Presidents of the Divisions of the High Court or the major part of them, of which majority the Lord Chief Justice shall be one," and also the sanction of the Treasury. That would seem to require the concurrence of all three presidents, or, if there is a difference of opinion between them, a majority including the Lord Chief Justice?—I am not quite sure if the Master of the Rolls is reckoned as the head of the Court of Appeal, or is it the Lord Chancellor?

60,814. I think the Lord Chancellor is the head. Is that provision ever applied in practice in your experience?—Never, so far as I know, and I should be very sorry to see it applied. I see no reason for allowing the Lord Chief Justice to put a veto upon some change which was agreed to by every other member of the committee. I think it does read that he must be not merely one of the body to consider the matter, but that he must constitute one of the majority. Supposing the body were four, it means if the other three agreed he might say: "Oh no, you shall not." It seems to me, may I say, stupid.

60,815. In practice you settle the matter with the Lord Chancellor?—Absolutely.

60,816. And it goes no further?—No; I do not know of any case in my time, nor before my time either, where there has been any communication at all with the Lord Chief Justice upon any such point. The only time when I communicate as President of my Division with the Lord Chief Justice in connection with the work of the division, is when I want assistance from his judges, when he very kindly sometimes gives me an additional judge—invariably he does, I am glad to say.

60,817. In a case where dismissal is required, the Lord Chancellor has in that case to concur with your decision?—I think he has. I am not positive about it. I have never looked into the matter and I have never dismissed up to now. I have suggested that people might go, but I have never dismissed.

60,818. Short of dismissal you have complete disciplinary powers in your division?—Yes, I think so.

60,819. (Mr. Matheson.) In the Principal Registry a large number of clerks are employed, and most of

them appear to enter in the third class and then get promoted?—Yes, that is so in Somerset House. They are always appointed first to the third class.

60,820. Some of us, I think, have rather got the impression that in the lower part of the work that is done there the kind of men who come in with the hope of being promoted to the second and first classes are rather too good for the work that they have to do. Have you any opinion as to whether it would be desirable at all to divide the work between two different classes of people, of which the lower should do the more elementary and even mechanical work without having promotion except in cases of special fitness?—I think the practice there has been to cause all those who come into the office as ordinary clerks—I am not talking about registrars—to become acquainted with any part of the work, so that when promotion comes they may be promoted to any particular department in Somerset House—either the Scrivenery Department, the Search Department, the Seats Department, and so forth.

60,821. The question I wanted to raise was whether some of the work in the office was so elementary that it is a waste of money to pay for that work a class of people who are good enough to go on ultimately to the top?—That means that you would reduce the salaries; otherwise it is not wasting money. It may be wasting the energies of people who are fitted to do the work of the second class. Unless you do something as to the salaries it does not matter so far as money is concerned.

60,822. Except for the moral effect that it may have in an office; if you keep a good man too long on elementary work you may be destroying or injuring his capacity for higher work?—It might be well if I had the power to put a person at once in the second class, but there would be a great outcry in Somerset House, I am afraid, if I did that.

60,823. You have no strong opinion on the point?—No; I do not think it is a bad thing to let them begin at the beginning. In the case of promotion, the President is not bound to promote the next man. He can appoint a man to jump over the heads of some if there is good reason for doing it.

60,824. Our evidence seems to show that seniority is a very strong element?—Yes, it is. I suppose as a rule it works well enough, and conduces to good feeling, I dare say, in the office; but there is nothing to prevent my taking a clerk from very nearly the bottom of the third class, if I think him very competent, and putting him into the second class.

60,825. (Sir John Kempe.) I understand your view to be that you do not think technical legal qualifications are necessary for the clerical part of the establishment?—I do not think they are. I think it well that they should sometimes have it, but I do not think it necessary.

60,826. A man can be trained and learn his work in the office?—Yes. It is like an articled clerk in a solicitor's office: he has a general education before he goes there—the more the better—but he does not know any solicitor's work until he goes to the office, and then he begins to learn it.

60,827. Would you go further than that and be willing to accept men, as in the rest of the Civil Service, from some general list of men who have passed the examination, whether of the first or second grade, or whatever it may be; that is to say, not to have a nomination list for your own office specially, but to take men generally from the Civil Service list?—That matter has already been discussed between myself and the Chairman. There is no objection to it so far as I can see.

60,828. I understood the question discussed with the Chairman to be nearly as between open competition and nomination. There is a general list every year; would you be quite content to take men from that list?—Yes, certainly.

60,829. You do not want a class competition of your own?—There is no particular class of man at all. Applicants come and are placed on my list from all parts of the country, and from all sorts and conditions.

60,830. (Mr. Coward.) I should like to ask a question with regard to the necessity of registrars sitting in court. Is not there some waste of power there?—I think the registrar ought to be there. He does not waste time; he draws up orders there and then.

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60,831. You mean, he works while he is sitting there?—He works. People come to see him; he sometimes abstracts the motions which are coming on the following Monday, and so forth. I do not think he wastes time there. I do not know whether, if I put my head over the bench oftener than I do, I should see him reading a more interesting document.

60,832. If I might give evidence, I do not think you do put your head over the bench often?—I sometimes have to say, "What is the practice about so and so"? I think a registrar, or a competent clerk of a registrar—each registrar has a clerk—ought to be in court. Besides, I think in the High Court there ought always to be a registrar under the judge.

60,833. It is a costly thing to have unless it is advantageous?—I think it is sufficiently advantageous to be a recompense for the cost. Besides, the Court is constituted in a certain form, and I think a registrar ought to be there with his wig on his head just as the judge is.

60,834. I see—he looks rather well?—I am not advocating their retention there simply because they are ornamental, but because, as I have told you, they are useful. For instance, let me say that in Admiralty matters it is very useful for me to have the assistance of Mr. Roscoe.

60,835. I think that is right, because the practice in Admiralty is very peculiar?—It is a special practice, and so it is in Probate and Divorce. I hope the Commission will not suggest any change in that direction.

60,836. In the Probate Registry, including Somerset House, there are 125 people. That is a large staff, is it not?—It is.

60,837. One would deem it necessary, if it were a private office with a large staff, to see that it was properly kept up and properly controlled, that there should be somebody who really saw what was requisite in the way of its upkeep?—Yes.

60,838. It does not seem to me that there is in this office, because, of course, it is not to be supposed that you can know anything about it?—No, I have only been to Somerset House once.

60,839. And when you did go you did not see very much?—I went all over it.

60,840. But you would not know very much of the inner working of the place?—No.

60,841. One wonders whether some scheme could not be devised by which there should be somebody to see that it was properly controlled. I feel myself there is very great difficulty about it, and I am not at all sure that it is possible?—You think there are too many there for the work, and that they do not work hard enough?

60,842. Yes?—That may be. I do not know. The senior registrar ought to have general control of the clerks and, of course, of the department itself in Somerset House. I believe they have a system there by which they can check the time when people come to the office and when they are absent, and so forth.

60,843. We have seen one or two of the clerks here, and the evidence of one I have before me. I asked him to give an account of what his day was, and you would be surprised to know how difficult he found it to give an account of what he did in the day?—You mean it would not necessarily produce brain-fag.

60,844. With the result that in the end I asked him whether any intelligent person of 25 could not learn all that he told us he did in 24 hours, and he said, "Yes, he could"; he quite agreed—and you know these people get very substantial salaries?—They do, but that is not peculiar to Somerset House. You will find it in lots of the Government offices, I should imagine.

60,845. One of these people was asked what they did, and he said, "Well, we help one another"?—That is a very nice feeling, but you think it too costly?

60,846. I do not know that I can get much assistance in my difficulty from you?—No, unless on proper investigation you thought that fewer men ought to be able to do the work by fairly constant attendance.

60,847. It is rather difficult to tell?—It is very difficult. I suppose somebody who looked into the matter must have settled the classification and the number of people in each class. If the work were getting smaller there would be a reason for changing it. Please do not

think that I have any objection at all to any investigation of that kind. I believe in people doing an honest day's work for their pay.

60,848. (*Chairman.*) Who is primarily responsible to you for the internal arrangements of the office?—The registrar.

60,849. The senior registrar?—Yes.

60,850. At present does the senior registrar in fact control the internal arrangements of the office, or is that duty relegated to Mr. Registrar Musgrave?—Dr. Pritchard, as you know, is very old; he does not attend the court at all. He is always in Somerset House. He has never been in court in my time; the registrars under him take it in turn. He is over 80. The more active spirit there is the registrar next to him, and that is Mr. Musgrave.

60,851. (*Mr. Coward.*) We have had Mr. Musgrave before us?—And a very good official he is.

60,852. (*Chairman.*) It is through Mr. Musgrave you would act if there was any question of regulating things?—I always act through him. If I have any inquiries to make I send for him.

60,853. And it would be Mr. Musgrave's duty to bring it to your notice whenever any reduction of staff was practicable?—Yes. When I say his duty, it would be through him that it would be done. He is the senior active registrar.

60,854. (*Mr. Graham Wallas.*) How old is Mr. Pritchard?—He is over 80, but I have no further information.

60,855. You say that Mr. Pritchard is always in Somerset House?—What I meant by that was, that he does not attend the Court as one of the registrars; it is not part of his duty. The senior registrar ceases to be one of the registrars attending the Court. That is what I meant.

60,856. Some of the evidence rather suggested that Mr. Pritchard did not spend much time in Somerset House, but that his work was done by his clerk going down to him in his own home?—I do not know that. I have seen him, but not very recently.

60,857. Supposing it should happen that Mr. Pritchard ceased to be fully capable of performing the office of senior registrar, for which he is paid 1,600*l.* a year, how would you find that out?—I could easily find out if he does not do his work properly. His work constantly comes before me. There are appeals from orders which he makes on various interlocutory applications which come before me.

60,858. But there is certain work as senior registrar for which he receives an extra salary?—I do not think so. He happens to be the senior registrar, and therefore gets the higher salary, but there is no difference between his position in any other respect and the position of the other registrars. There is nothing that he is bound to do that the others cannot do. His work is exactly the same; he attends to summonses and taxes costs.

60,859. Has the senior registrar no responsibility for the general organisation of the office on general questions?—Yes, I think he has, as senior registrar.

60,860. Mr. Musgrave told us that he was more or less acting senior registrar. Do you happen to know whether that is the case?—I have explained that when I have particular inquiries to make I make the inquiries through Mr. Musgrave. If I ask him to come and see me, if he does not happen to be in attendance at the Court at that particular time, I send word to Somerset House for him to come at the rising of the Court and discuss with me various things; I consult him about the district registries and their work, complaints coming from solicitors about various matters, and suggestions for improvements. The person in the office with whom I discuss those things, if at all, is Mr. Musgrave. That is what is meant.

60,861. On the other hand, when we asked the clerks to whom they took the attendance-book, they said they took it to the senior registrar's clerk, that is, to Mr. Pritchard's clerk?—Yes, who sits in the room with him.

60,862. Does that suggest to you that there may be a certain confusion of responsibility as between Mr. Musgrave, who is more or less acting senior registrar,

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and the senior registrar's clerk who is acting in another way for the senior registrar?—I do not think so. Mr. Musgrave is acting more or less as senior registrar, because, as I explained, he is more active in the work at present outside Somerset House than Dr. Pritchard is.

60,863. Mr. Musgrave told us that there is at present a rule in the office against answering letters. Do you know whether that is a rule in writing on the authority of the President of the Court?—I think what he meant was that there was no business done by correspondence; but letters pass from Somerset House constantly to all sorts of people.

60,864. Yes, but he said there is a rule. Do you know the character of the rule—whether it is in writing or anything about it?—No, I do not. I think it only means that no work is done by correspondence; but they do correspond constantly with people.

60,865. If you gave orders, letters from the general public could at once be answered?—I have no reason to suppose that letters from the general public are not answered.

60,866. We had a definite answer on that point. The question asked was: "I was told that the principle in your department is, that work should not be done by correspondence but by personal application?"—and the answer Mr. Musgrave gave was: "There is a rule to that effect. It is one of the rules that the business applications shall not be made by correspondence."—Yes.

60,867. There is either a rule or there is not, and if there is a rule it is not by statute but on the authority of the President of the Division?—I should think one of the earlier Presidents made the rule.

60,868. And you could, by giving a simple order, alter that rule?—I should think so.

60,869. And you have said that you do not see why such an order should not be given?—What I have said is, that I do not see why business should not be transacted in Somerset House by correspondence.

60,870. But is there any one else whose duty it would be, in any sense, to issue that rule except yourself, I mean to issue a new rule on the subject?—I do not know. I do not know exactly what the rule is. I will inquire if the Commission wishes it. I have not been asked to change the practice by any member of the public, or any professional man. The practice has gone on as it existed when I went there.

60,871. If, in your judgment, any change were desirable, would you yourself propose to make that change?—If I have the power, yes. I have made several rules from time to time.

60,872. We found, on the evidence from the clerks, a great difference of custom as to the signing of the time-book. In one of the legal offices we were told that if you were there by 20 minutes past 11 you signed the time-table as being there at 11. In your office Mr. Collins told us: "If we are there at 10 minutes past 10 we sign as 10 o'clock." In the Central Office we were told that the suggestion that anything of the kind could be done was an insult. A certain uniformity of practice is rather desirable in that respect, is it not?—The practice ought to accord with the truth. If a man is there at 10 he ought to put down 10; if there at 10.20 he ought to put down 10.20.

60,873. Supposing the practice is as Mr. Collins told us: "If we are up to 10.10 a.m. we sign as 10"?—It is too lax.

60,874. Who is responsible ultimately, except Mr. Collins himself?—I suppose I should be in this sense, that if that came to my knowledge, or was brought to my knowledge, I should probably cause a letter to be written to that gentleman to say that he must put down the exact time or else he would hear of something to his disadvantage.

60,875. Who is responsible for bringing it to your knowledge?—I suppose any registrar from Somerset House could tell me that if he wished.

60,876. Have you ever considered the possibility of using, for the sort of work that is done in the Somerset House Registry, the services of women clerks?—I think there are two women typists there. That is part of a

very big general question. A good deal of the work, calendar work, copying and typing work, and so forth, no doubt might be done by women. Solicitors' clerks come there to make inquiries and to examine documents, and so on, which are handed to them by the other clerks. As I say, it is part of a big general question.

60,877. Do you understand whose duty it is to consider such big general questions in regard to the office?—I suppose I could appoint female clerks to the third class and the second class, and even a female registrar. I do not know if there is an Act of Parliament which prevents it.

60,878. Turning for the moment to the local registries—the district probate registries—Mr. Simpson is Probate Registrar at York?—I appointed Mr. Simpson in January 1914 and transferred Mr. Thompson from York to Wakefield, which is the bigger office.

60,879. Mr. Simpson said: "Now at York my two senior clerks (the oldest of whom is 78 and very deaf, and the second one has lost the sight of one eye and is a very nervous man) do not pull their weight in the boat." Then he said: "I really employ a junior clerk—a fourth clerk—to nurse them through their work as it were. If a solicitor comes in and speaks to a man who is stone deaf I have to have the other clerk there to help him through." That is not a wholly satisfactory office, is it?—No. It is time to suggest to those clerks that they should give way to somebody else.

60,880. Whose duty is it to do that?—The registrar's.

60,881. Whose duty is it to see that the registrar does it?—The registrar can complain; he can give those men notice to quit. They are not Civil servants. All he has to do is to put his foot down and to say: "I will not engage you any longer."

60,882. You said that you were against the business of agency fees; that is to say, charging fees to the public for answering letters?—Yes I am against the system.

60,883. But you think, in the case of the present holders, it could not be abolished without full compensation?—I do not think so. It might be necessary to regulate certain fees for correspondence work—that would have to be carefully gone into; but I am against the fee system as at present carried out, which has lasted longer than was intended, which is not governed by any rules, and which is, I think, not satisfactory. That does not mean that if the correspondence work goes on the Treasury might not find it necessary to make a rule allowing certain fixed fees to be taken.

60,884. Would you agree that the Treasury ought to be extremely careful in giving full compensation for fees which have, in fact, been fixed without a rule at the sweet will of the registrar?—That is a matter for the Treasury.

60,885. For instance, we had a number of registrars' clerks before us, and every clerk told us that it was his habit to do, in official hours, agency work. That is clearly against the principle on which the allowance for these clerks is paid?—They are not paid to give the whole of their time to the district registries. They are not Civil servants; they may be solicitors' clerks.

60,886. But is not the registry office, in fact, kept separate from the solicitor's ordinary office, and is he not bound only to employ the registry clerks on registry business?—I do not think so. I dare say, as a matter of practice, he does so; but I do not think he is bound to.

60,887. But if it were so, and if there were irregular giving of official time to the earning of these fees, it would be against the public interest to pay full compensation for them, would it not?—That must be left for other people to determine. It may be that the clerks would not be entitled to any compensation at all. When I referred to compensation, I was referring to the registrar who was appointed upon the understanding that the salary was £x, and that the fees were about £y, and that therefore the salary would be £x plus £y. The clerks have their own wages, except that I believe there

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is a private arrangement in most cases between the registrar and his senior clerk, for some reason or other, to divide these agency fees in certain proportions.

60,888. But if, in fact, he is also given an allowance for clerk hire, on the understanding that he is only to use that allowance for official work, and that allowance is used to pay for this agency business, surely it would be against the public interest to compensate him twice over?—It may be.

60,889. Mr. Shadwell, of Bodmin, when he was asked about improving the work in the office by using typewriting, said: "I have considered the use of typewriting. I mentioned the subject at the probate registry, and was told that formal application would not be entertained." He was asked: "Do you understand on what ground?" and he said: "I do not." Do you happen to know anything about that incident?—No; I do not know how they regulate what shall be typed and what shall be written.

60,890. But if there was formal refusal to allow typewriting, and a statement that it would not be entertained, it would be you who would not entertain it. It must be a statement of your intention?—I suppose so. They find it convenient to type lots of things. I believe other things they still write.

60,891. You told us that you appointed a gentleman at Exeter, where the work was not very hard and the salary was rather considerable—Mr. Hardy. Do you happen to remember his age on appointment?—I could not tell you. He was a barrister, I think, on the Northern Circuit. One of my predecessors appointed him registrar straight off in Somerset House, but his health was not very good; he was doing his work quite well, and so on, but he wanted a little more rest and less anxious work, and he asked to be transferred to Exeter from Somerset House. In Exeter the number of grants in 1913 was 1,151, and the registrar's salary, without fees, is 1,000*l.* That bears out what I say, that the work is not hard and the salary is very considerable. Perhaps it is as well to put on record that he was also entitled to pension after a certain number of years' service at Somerset House, and the pension, the fees, and the salary exceeded the salary which he was getting as third registrar in Somerset House, so I made it a condition when I appointed him that he was not to receive more than 1,500*l.* a year, and that he must give the balance of the money back to the Treasury; whether

he liked to give it back out of the salary or the fees did not matter to me.

60,892. Do you happen to remember his age?—It is a mere guess from his appearance, but I should think it is 58 or 60, or something like that.

60,893. (*Chairman.*) Was he pensionable in his post as registrar, and also in his post as district registrar?—He would be pensionable as district registrar, too, I assume; but he asked me to help him to get his pension, notwithstanding the fact that he was leaving his present office before a certain age, and I said, "Yes, by all means; if you are entitled to a particular pension I will ask them to give it, notwithstanding you are being transferred elsewhere; but you must not have more than your 1,500*l.*"—and he acceded at once.

60,894. (*Mr. Graham Wallas.*) Under Civil Service rules, if he retired from Somerset House under the age of 60, he must have retired through ill-health?—He did not retire; I transferred him from a registrarship at Somerset House to a district registrarship.

60,895. Was not he getting a pension at Somerset House?—Assuming he was retiring from Somerset House, he would be entitled to a certain pension, and he said, "If I do not retire, but merely go down to Exeter and have a smaller salary, it is rather hard upon me to lose my pension. Do you object if the Treasury give me my pension, notwithstanding I am still doing work in Exeter." I said, "I do not object at all, but I will not allow you to receive more than 1,500*l.* a year; you must return to the Treasury any balance." I did that because I knew that the salary, plus the fees, plus the pension, exceeded the 1,500*l.* a year. I see, by the Law List, Mr. Hardy was called to the Bar in 1880, so I should think he is about 58 to 60 years of age.

60,896. (*Sir John Kempe.*) You do not know whether his pension is in abeyance simply. They could hardly give him a pension, but might say, "Your future service will count if it is public service"?—I think the arrangement was made that he should be entitled to pension.

60,897. Although he was not yet 60, and not in ill-health?—I do not know what the terms were, but I understood that the Treasury were willing to give him a certain pension, and that he was entitled to receive it.

60,898. Probably it is in abeyance?—I do not know that.

ONE HUNDRED AND FORTY-FOURTH DAY.

Thursday, 8th July 1915.

PRESENT:

SIR HENRY BABINGTON SMITH, K.C.B., C.S.I. (*Chairman.*)

Sir DONALD MACALISTER, K.C.B.
Sir JOHN ARROW KEMPE, K.C.B.
Sir GEORGE MORISON PAUL.
Mr. ARTHUR BOUTWOOD.
Mr. CECIL COWARD.

Mr. PERCY EWING MATHESON.
Mr. ARTHUR EVERETT SHIPLEY, F.R.S.
Mr. GRAHAM WALLAS.
Miss HALDANE.
Mrs. DEANE STREATFEILD.
Mr. E. W. H. MILLAR (*Secretary.*)

The Right Hon. VISCOUNT HALDANE of Cloan, K.T., O.M., called and examined.

60,899. (*Chairman.*) My Lord, you held the post of Lord Chancellor for some years?—Yes.

60,900. The questions with which the Commission have been dealing in connection with the legal departments must have been constantly present to your mind in that office. The first of those questions to which we would ask you to direct your attention is that of the method of appointment which is in use in the legal departments in England?—I presume you exclude all the judicial appointments and the higher appointments?

60,901. Yes, judicial appointments, which have been interpreted to mean all appointments where the salaries are paid out of the Consolidated Fund, have been considered to be outside the Commission's reference, but the reference includes semi-judicial posts, such as the masterships, and all the lower posts. The first question which has been raised, on which we should be glad to have your opinion, is whether that part of the legal patronage which is at present in the hands of the judges should remain in their hands, or whether there would be an advantage in

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concentrating the whole of it in the hands of the Lord Chancellor?—I have a strong opinion that all patronage in regard to appointments which have their salaries defrayed out of public funds should be in the hands of a Minister responsible to Parliament, and who could be made accountable there.

60,902. You attach great importance to the responsibility to Parliament?—Great importance. It is not so much that Parliament interferes largely—it does not—but the sense that a Minister is a trustee who may be called to account is most salutary.

60,903. That change would involve the transfer of certain appointments in the Central Office of the Supreme Court, and the whole of the appointments in the Probate, Divorce and Admiralty Division from the judges, who exercise the patronage at present, to the Lord Chancellor?—No doubt.

60,904. It has been suggested by Sir Kenneth Muir Mackenzie and others that it would be an advantage if the Lord Chancellor in exercising that patronage were assisted by a permanent committee which would examine the qualifications of the candidates and to report to him, the ultimate responsibility for the appointment remaining with the Lord Chancellor. The same suggestion was made, but in a somewhat different form, by Lord Loreburn. Lord Loreburn suggested that a committee of the kind should be created, but he preferred that the actual responsibility for the appointments should rest with the committee subject to an appeal to the Lord Chancellor in cases where the Committee was not unanimous. Will you give us your opinion on those suggestions?—I think it follows, from what I have already said, that the first suggestion is the one that commends itself to me. The Lord Chancellor must be responsible, and, if so, he must have the power of choice. His committee, in other words, must be advisory to him, and he must have the power of departing from its recommendations, though whether he would is another question; but if he is to be responsible he must have the power of making his own choice.

60,905. He would have to be prepared to defend his action if he acted otherwise than in accordance with the recommendation of the committee?—Yes.

60,906. A minor point has been raised in that connection, namely, whether the recommendations of the committee should be publicly known. If they were not published in any way, then there could be no question of the Lord Chancellor having to justify his action in departing from a recommendation?—There is something to be said on both sides; but on the whole, speaking apart from further consideration, I should be against their being publicly known. I think the committee would recommend more freely, and the relations between them and the Lord Chancellor would be confidential. The choice would be his, but it would be known that the committee was there, and then, if he had to answer questions on the subject, he could say whether or not he had agreed with the advice of the committee.

60,907. Then I gather that, subject to the condition that the final responsibility for appointments should rest with the Lord Chancellor, you are in favour of a committee of that kind?—I am in favour of that committee, but I wish to add something. A committee of this kind is not the end of wisdom; it is only the beginning. I am now going to refer to what I think goes beyond the scope of your reference; but I cannot make clear my point without saying something that goes beyond the scope of your reference. In the middle of the last century, and from time to time in the latter part of the century, it has been felt that the office of Lord Chancellor has been an impossible one for its occupant to discharge efficiently. Lord Herschell said, I think, before a committee, that it was two men's work, and I do not believe that if the Lord Chancellor did his work properly two Lord Chancellors could get through the work which devolves upon one. He has his judicial work and his judgments to prepare, and, if he fulfils his functions as head of the supreme tribunals of the Empire, that of itself is enough to occupy him. In the second place he is Speaker of the House of Lords, which sometimes takes up a great deal of time

and cuts into the opportunities which he should have for other things. In the third place he has more ecclesiastical patronage than the two archbishops put together—I think three times as much—and to that he ought to be able to give very close attention. He has to appoint the magistrates, and he has a great deal of general political work, all of which, if he does his duty, he must cover. It is perfectly obvious that if that is so it is impossible for him to be a proper head of a great administrative department. Moreover, there is another difficulty: With the functions he has to perform he must be at the House of Lords, and that must be the place where his office is; that is remote from the courts and remote from the departments which he is administering, and my experience is that you cannot administer a great department unless you are on the spot. I had between six and seven years' experience of administering the War Office, where one has seen the analogy to what we are considering in full play. Unless the head of the department is on the spot he cannot keep in contact with the heads of the sub-departments concerned, which contact is necessary in order to enable him to control the business. Therefore I do not think you will solve the problem before you until something like this is done—until the Lord Chancellor's functions are recognised as exclusively judicial functions, as head of the great tribunals of the Empire. Possibly by that time the House of Lords will have been reconstituted and have a separate Speaker of its own, as it probably will have if it is changed. Then there will be to be dealt with all the Lord Chancellor's judicial and other patronage—all his administrative patronage and his ecclesiastical patronage—and to be considered in connection with that there will be the very considerable judicial patronage of the Home Secretary—in the appointment of stipendiary magistrates, recorders, and so on. Then there is the judicial patronage in the office of the Duchy of Lancaster. I am myself satisfied that you will never solve the great problem that you have until you set up a Minister of Justice who will absorb, in addition to the administrative work of the Lord Chancellor, much of the legal patronage and functions of the Home Secretary, and much of those of the Chancellor of the Duchy of Lancaster; but what other changes that will entail I am not going into here. That Minister of Justice will sit probably in the House of Commons and be responsible to it; he would be at the head of the department where he could get into contact with all these people of whom I have been speaking. A committee is, therefore, a very valuable palliative, but merely a palliative.

60,908. You attach, I gather, special importance to the committee as assisting the Lord Chancellor in the exercise of his judicial patronage under present conditions which render it impossible for him to give full individual attention to the matter?—That is so.

60,909. If changes such as you have indicated were carried out, the committee in your view would have less importance?—Less importance. It might still be important, but not so important. As soon as the relation and contact of the Minister with the heads of the sub-departments is established, the committee becomes less important.

60,910. The constitution of the committee would probably be something of this kind—a representative of the Civil Service Commission; the Permanent Secretary to the Lord Chancellor; the head of the particular department concerned, and some eminent solicitor selected by the Lord Chancellor. Does that constitution commend itself to your judgment?—Yes. I think that would be a very useful committee.

60,911. The question also arises of how far it would be possible or desirable to substitute appointment by competition, either open or limited, for the present method which is entirely nomination?—Competition by competitive examination?

60,912. Yes, by competitive examination. You have already given the Commission—when you gave evidence before—the benefit of your views on the general question of competitive examination. Do the views you expressed then require any qualification or amplification with special reference to the legal departments?—No

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qualification, but I should like to add this: that the more I see the more I am convinced that the examinations of the Civil Service Commission, of the kind we are describing, are a very poor substitute for examinations based on record. I should like to see the higher leaving certificate of a secondary school made an indispensable condition of anybody entering the legal departments of which we are speaking; and if you had the assurance that he had a mind which had been trained and a record which was satisfactory, then I should not trouble myself about his legal knowledge or about anything else, because my experience is that when you get a man who is capable he will pick up things very quickly. After all, there is no mystery about the law; you very soon learn it. There is no mystery about anything; it is only a question of getting above it and grasping the principles which are embodied in its details, and a trained mind will work into it very quickly—certainly sufficiently for what is required in the departments we are discussing.

60,913. You would make the possession of the certificate of having passed a leaving examination (which gives, I suppose, evidence of having been a certain period at a secondary school) obligatory?—Yes, subject to this, that unfortunately in England our schools are very badly organised. There are too few of them, and it is not easy to get an adequate certificate. The matter has been a long time under the consideration of the Board of Education, which has taken steps towards it, and it is a subject of review in the report of Mr. Acland's Committee. In Scotland the system is fully developed, and works admirably and without any difficulty.

60,914. But given that you had a considerable number of candidates who possessed that certificate, what would be your method of selection among them?—Then I think I would select from them with a rather limited examination, into which I would bring the possession of legal knowledge so as to pick out the young man who had shown that he cared about law, and had taken the trouble to learn something about it. I do not say that I should confine myself solely to law, but that would certainly be an element in a selective examination out of the class.

60,915. The evidence which we have had appears to point to this, that the legal offices may be classed in two categories: First, those where the work is not of a specially technical character and where previous legal experience is not necessary, and a man of good education coming in can perfectly well learn the work after he has entered the office. Then there is the second category, in particular the Chancery offices, where the work is of a more technical character. For these the great majority of witnesses have expressed the opinion that previous experience, in a solicitor's office especially, is of great value, and some witnesses have even expressed the opinion that it is indispensable. That appears to point to recruitment for the former class of offices by open competition, either in its present form or in some modified form as you have suggested, and for the second class of offices to appointment at a somewhat later age by nomination of candidates who have had experience in a legal office. Does that division into two categories commend itself to your judgment?—Yes. I was speaking in what I said of the class of general clerks—those who belong to the Central Office, for instance, and places of that kind—and I do not leave out of account that in any office a competent man will learn all that has to be known. It is only a question of a little time, and I would certainly rather have an ignorant competent man to start with than a learned incompetent man—and such people exist. I think you must, when you come to certain offices in certain stages, distinguish. I will take one office that I know something of—the Land Registry. It is absolutely necessary there that you should have a good conveyancer with a good conveyancer's mind. You get in the ranks, the too numerous ranks, of unemployed barristers and unemployed solicitors' young men who are very glad to discount the future by taking a certainty at an early stage, and sometimes you will get extremely able people there. I think that is the very best class out of which you could recruit the higher officers of the

Land Registry, and I do not think any other class would suit your purpose. I do not think open competition would suit your purpose there. There is an intermediate stage; there are a certain number of people in the Law Courts who require technical knowledge and use it, but who, I think, have acquired most of what they possess in the office. No doubt it is quite good that they should come in with the training of a solicitor's office, but one may overdo that. I certainly should not shut that out, and when I was responsible for appointments as Lord Chancellor, I used to lay great stress, for instance, with regard to the appointments in the Taxing Office, on trying to get an experienced solicitor's clerk who had gone through the mill and who knew the things in a way that one cannot know them unless one has done them from the bottom. He has got something that is more an instinct than an abstract principle which he applies in scanning the details of a bill of costs, for instance. The same thing is true when you get to the work connected with administering estates. Therefore, I think you must have that class to look to—the class of those who have been specially trained; but on the other hand I should be very sorry to shut out from all chances of promotion to a higher class connected with the work those who had developed great competency in legal work in the other class of which we have been speaking.

60,916. That would seem to point to recruitment for what one may call the general offices, such as the Central Office and the Principal Probate Registry, by some form of competition not specially legal, and to the recruitment for such offices as the Taxing Office and the Chancery Offices by selection at a somewhat higher age from among solicitors' clerks?—Yes, but not necessarily exclusively.

60,917. Would you allow transfer where desirable between those offices?—Yes.

60,918. You would not shut them up into separate compartments with no possibility of access from one to the other?—I am all against either vertical compartments or horizontal compartments. I do not like to see a man find himself in Class 3, with the consciousness of great talents, and feel that he cannot possibly rise into Class 2. I think that is very wrong. I think he ought to have his chance, and if fit he ought to be able to get into Class 2 and up to Class 1 if necessary.

60,919. In offices recruited in that way from solicitors' clerks there would always, I suppose, be a certain amount of work of a purely routine and minor clerical character—keeping lists, filing papers, and so forth. It would seem that it is unnecessary to have persons of legal experience for that kind of work, and that would appear to point to having a class below the solicitors' clerks—a class more of the nature of the assistant clerks—for doing routine work. From what you say I gather that if a class of that kind were employed you would be anxious not to shut the door entirely to the possibility of promotion if a man showed exceptional talent?—That is my view.

60,920. But you would recognise the necessity of employing a class of clerks of that kind if you had a class with professional qualifications for the main work of the department?—Yes.

60,921. If free transfer between the different offices were recognised, as you suggest, that would make it all the more important that the system of promotion should be carefully worked?—Very important.

60,922. Have you had the opportunity of judging how far in the past promotion has been made by seniority and how far by merit?—Not in my legal experience as Lord Chancellor, but I had very large experience of it at the War Office, where, paradoxical as it may seem, I came to the conclusion that the seniority principle was one that could not be disregarded. When I went to the War Office the general principle was selection for promotion by merit. It sounded perfectly admirable, and was admirable upon paper, but everything turned on who selected. The selection was done by what was then called, and is still called, a Selection Board.

60,923. Are you speaking of promotions among the Civil staff of the office or the Military staff?—I am talking of military promotion, but it illustrates very

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much what I am dealing with. It would have been admirable if the Selection Board had been an ideal Board, but the members of it came to me and said: "You know we are not ideal; everybody knows about some particular man, but does not know about other men, and there is not enough knowledge to make it work. There are great complaints in the Army of what is called leap-frogging, which they say is the only principle of selection by merit." We discussed it, and what we substituted was seniority tempered by selection. But "tempered by selection" is a very real phrase. It meant that when there was a vacancy the first name you considered was the man who was the next in seniority, but you were quite ready to see whether he had disqualifications which made it inexpedient to pass him on, and that was so well known and they were of so miscellaneous a kind that it was not the bitter disappointment that it would have been if he had been passed over in a system of pure seniority. The result was that we came to think that that was the best way to work. I am far from sure that it is so under all circumstances or everywhere, but I am pretty sure that it is when you are dealing with a body which does not come in frequent personal contact with the persons who are to be selected and does not know them by head.

60,924. That objection would be of less force as the field over which your promotion was to extend diminished in size?—Much less force.

60,925. And would therefore come more within the view of one man?—Provided always the committee, and not merely one man on it, knew the men and could see something of the men. I have always thought myself that a committee ought always to see a candidate. I never liked making an appointment, if I could avoid it, without seeing what the candidate looked like.

60,926. In legal offices of the kind with which we are dealing, no one of which contains more than 200 persons, there would be nothing impracticable in the head of the department, in consultation with the heads of branches or sections, arriving at a real personal knowledge of the merits of the men?—No, I think he might do that, and if it was made certain that he did consult with his subordinates, then his advice, coming perhaps as the advice of an informal congregation of himself and his subordinates, would be of great importance to the little committee of selection which had to report to the Minister.

60,927. Do you consider that the committee suggested for advising the Lord Chancellor about appointments should also advise about promotions?—I think so. It is perfectly impossible for the Lord Chancellor himself to determine who should be promoted, and the only alternative to leaving it to the committee is to leave it to the head of the department, and that is not always safe; he means well, and some men will do it unerringly, but other men will do it very badly. Therefore, I should like to check that by bringing in a committee. How far they intervene, of course, will be a question very much for their own judgment. In small appointments naturally the voice of the head of the department would carry very great weight, but to the higher appointments within the department I think the promotion should have at least the sanction of the committee.

60,928. The head of the department would be one of the members of the committee and would have the opportunity of having his voice heard in that way?—Yes, I understand that.

60,929. With a system of that kind the considerations that you were explaining in favour of seniority as a strong element in promotion would not have so much force?—That is so. When I say seniority tempered by selection I mean a real selection subject to this: when a man is senior *prima facie* he goes up, but he may be a little too old, or he may be deaf, or he may in some way not be just exactly fitted, in which case it should be the duty of the committee to say: "No; we are here to get the best man for the public service, and, while there is a presumption in your favour, it is a presumption which, unfortunately, in view of the circumstances, we rebut."

60,930. Where the field is small enough for the recommending or promoting body to have adequate knowledge of the candidates, would you still say that the right system is seniority tempered by selection, or would it not rather in that case be selection tempered by seniority?—I think to some extent it depends upon the appointment. The higher you go with the appointments the more you can know about the man, and the lower down you go the less you can know. Therefore, the lower down the appointment is the more the seniority element is applicable; but when you get to the higher appointments then, I think, you get practically to the necessity for selection—but I am now talking of an appointment fairly high up.

60,931. In the offices we have to deal with, you have the masters and registrars as a class by themselves above, appointed almost always from outside and not by promotion from below?—Yes.

60,932. Then you have several classes below rising to a maximum of 600*l.* a year, or in some few cases to 800*l.* a year; so that the question of promotion to the higher appointments in the strict sense hardly arises in those departments?—Much less.

60,933. Your observations as to the relative weight to be given to seniority and merit would apply within those somewhat narrow limits from 100*l.* up to 600*l.* or 800*l.*?—Yes. Of course, when you come to appointing a master, you do not select from a class but you select from the world. That must be selection. While, of course, no question of seniority comes in there, I think the question of the committee and what it should consider comes in very much.

60,934. Do you consider that the clerical staff should be eligible in any case for promotion to the higher posts—to masterships and registrarships?—I would shut out no man, but they should be only eligible on account of very exceptional abilities.

60,935. At present in the legal departments the organisation in most cases is that there are a number of co-ordinate officers at the head of each department—a number of masters for instance—who are equal in all respects, except that the senior of them has certain functions as senior master. It has been suggested that it would be an advantage from the point of view of organisation if the senior master were selected because he was most suited for the post, and not merely because he had held the office longest, and that he should be given more definite functions of control over the department, especially over the clerical staff of the department?—I certainly think that the person who is to be senior master, and who has to advise the permanent secretary and the Lord Chancellor himself at times, should be selected, not on the ground of seniority at all, but on the ground of fitness. There my principle of bringing in the element of seniority does not apply any more than it does to the appointments of the masters themselves. You want an exceptional man; he might be the youngest of the whole of them. What functions you would entrust to him is, of course, a matter you must consider in relation to the general reforms which you are contemplating.

60,936. Would it be an advantage to transfer to him the duties which at present are performed by the committee of control in the Central Office?—I do not know enough of that to feel that I can give you an opinion which is of any value. It is one of the worst features about the office of Lord Chancellor that he knows less of his staff than any other Minister does, for the simple reason that he does not and cannot see them.

60,937. It has also been suggested that it would assist the senior master or committee of control, or whoever is entrusted with the control of the department, if he had a chief clerk who would be his executive officer for dealing, under him, with all the details of discipline, distribution of work, and so forth?—I think it would be very valuable, if he got the right man.

60,938. Another question is as to the fixing of an age for retirement. The suggestion has been made by many witnesses that in the legal offices in general the ordinary Civil Service rule should apply, which means retirement at 65, in all ordinary cases; but it has generally been suggested that a higher age would be appropriate in the case of some of the judicial offices—

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masterships and registrarships. What is your opinion on that matter?—I think that as regards the latter class you might go up to the age of 70. I gave evidence before the Royal Commission which sat upon the question of the appointment of King's Bench judges, to the effect that 72 should be the age at which judges should retire unless specially requested to stay on. Sometimes they are extraordinarily good at 72. It is possible that you might have, in the case of a chief clerk, a man of exceptional vigour and exceptional power, and it would be to the public advantage that he should be asked to stay on; but I should fence that round and make it a most exceptional thing, because otherwise everybody would press to be treated differentially from the rule. With judges I think it is essential that there should be such a power, or else you might lose some of the finest talent we have in this country, and in judicial matters I am glad to say that as people get older they sometimes get younger, that is to say they get more efficient. At any rate I have seen it happen very often.

60,939. Would you give a similar power of extension in the case of masters?—Yes, but it should be much more guarded. You would have to devise something. I can conceive a man who might be priceless as a master, to lose whom automatically at 70 would be a great loss to the State; but on the other hand the reasons for asking him to stay on should be tremendously fenced in.

60,940. For the staff below the masters would you agree that the ordinary Civil Service rule should apply?—Yes, I see no reason why it should not.

60,941. We should like to know your opinion, if you are prepared to give it, on a more detailed question of organisation. At present, as you are aware, the Chancery Chambers and the Registrars Office are entirely separate. After a case has been dealt with in court or in chambers in many cases it goes to the Registrars Office for the order to be drawn up. The suggestion has frequently been made that those two offices should be combined, and that there should be one class of high officers combining the duties of masters and registrars, and a combined office beneath them. Do you consider that an amalgamation of that kind would be advantageous?—I do not want to express a very confident opinion about it, but the whole of my inclination of opinion is that there should be one office. Of course the registrar has to sit, or ought to sit, in court a great deal. He has to take notes of what is going on with a view to the drawing up of the order or judgment which is pronounced; but that can be got over, as it is much less important than it used to be. When I went to the Bar first, and still more a few years earlier, the whole genius of the Chancery system was entirely different from that of the common law divisions, which were then the Queen's Bench, the Common Pleas, and the Exchequer. The business was largely administrative. Instead of isolated questions which arose in the course of the administration of an estate being determined, if you wanted one question determined the whole estate was administered. There was first a long complicated judgment directing inquiries. That had to be framed very carefully, and the registrar did it, and sometimes he had to have the assistance of counsel; but he had to be more or less of a specialist. You could not have thrown that work at the head of a chief clerk to do in those days. Then the judgment went into chambers and the inquiries were worked out, and then it came back into court, and there was what was called a further consideration, which was a most complex and complicated thing; and it took the registrar and the junior counsel between them in an important case to get the details of the order right. In those days I think there was a great deal to be said for the registrar being a separate person devoting himself to this very highly complicated and technical work; but all that has been swept away by the more recent rules, and the questions that are now decided are isolated questions. When there is an ambiguity about somebody's will, instead of the whole estate being thrown into Chancery to be worked out in an administration action with all the processes which I have described, a specific question is now raised by summons which very often is not heard

in court, but can be adjourned into court if it is important—a question whether upon the construction of five or six words in a will the property goes to A or B, the order on which is "yes" or "no," or something that is short. That work so enormously preponderates over the work which called the registrars into existence, and keeps them in existence, that I think the time has come when it is probably true that you could very well have one class of officials. I do not wish, as I have said, to express a confident opinion about what I do not know enough of at first hand to be able to say; but this change has taken place which I have mentioned.

60,942. If such a change took place it would probably lead to considerable economy of force, because much of the work which is now done twice over would only be done once?—I think so. I think there is a great deal of room for economy in administrative time in the legal branches.

60,943. Another question which has come before us is, how far there is room for the extension of the employment of women in the legal offices. The Commission have, I think, come to the opinion that at any rate it would be desirable to substitute typewriting as far as possible for engrossing, and, if that were done, it certainly would be desirable to employ women on that work. Do you concur in that view?—I not only concur in it, but I think it does not go nearly far enough. There is a very large amount of the work there which women would do just as well as men, provided they were properly trained for it. I should not limit it to typewriting, or those things for which women are quite as well fitted as men, but I should throw open to them everything except what, for special reasons, they cannot do. At present public opinion would not let you put them on the Bench, nor let you call them to the Bar, nor make them solicitors, and therefore it would not let them be chief clerks, masters, or registrars; but wherever they are, so to speak, out of sight, and the prejudices of the British public, or that section of it which is susceptible, are not outraged, they are being more and more employed—and very good they are, as far as I have seen. I certainly desire to see, as a very important public reform, as many offices thrown open to women as can be thrown open, and if my views had any effect there would be very few offices indeed from which they would be debarred.

60,944. The questions with which we have been dealing hitherto refer to the English offices. Similar questions arise with regard to the legal offices in Scotland, and in particular the question of patronage. That question, as you are aware, presents itself in a somewhat different form in Scotland, owing to the prevalence of the political method of appointment. Are you prepared to express any opinion in the first place as to the political system of appointment in Scotland; and, in the second place, supposing that your opinion was in favour of eliminating the political element, as to what means would be available for doing so; and, in particular, whether the appointment of a committee to assist the Lord Advocate in his patronage would be advantageous?—If I looked only to considerations of prudence, I should abstain from making any comments on my fellow countrymen, but I am a Scotsman, and it is in my blood and my bones, and I feel I ought to say what a Scotsman, who has seen things on both sides of the Border, thinks. My view is—and it is founded on a good deal of contact with the subject—that there is great room for reform in Scotland in these things. I am not sure that there is not considerably greater room for it than there is in England. I think that the extent to which politics comes into the making of appointments in Scotland would shock the public south of the Border if they in the least realised what it meant. I have seen a great deal of it. I was 25 years in the House of Commons sitting for a Scottish constituency, and had my full share of observing what happened in the case of some of the offices in Scotland, and the extent to which they are filled by somebody who was assistant election agent, or something else, to some influential Liberal or Unionist Member, according to which party happened to be in power at the time.

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It extends right through—whether it be the macers of the Court of Session, or whoever it may be. You find a great deal of that kind of thing, and there is no Scottish Member of Parliament of any experience but knows how, when any legal appointment is going in Scotland, he gets five letters for every one that he would get if it were in England. That shows that the pruning knife of the reformer could be used with good effect upon the tree north of the Tweed as well as south of it. How far you are to carry that out in detail I will not presume to say. It may be that the genius of Scotland is to make appointments upon political grounds to such an extent that, as things work fairly well, owing to the genius of the people, they do not want it very much changed. But I can only speak looking at it from my experience of public affairs, and I certainly think that the introduction of a committee would be a great relief to the unfortunate Minister in Scotland, who would at least have a “Jorkins” to whom he could appeal. How far you are to work that out in detail I do not know. For instance, there is the sacred office of Lord Advocate; his patronage is a thing which has dated from the days of the great families who ruled the destinies of Scotland, and it is very difficult to uproot a tradition. For all I know he administers it very well. I think he does administer it very well. He knows everybody; it is a small place, and he knows all the men; but, at the same time, there is such a thing as a principle in the world.

60,945. Many of the Scottish witnesses who have appeared before us have expressed the opinion that it would be impracticable to secure in Scotland a committee of the kind contemplated which would act upon impartial principles?—Well, do not allow them to impose upon you by any such statement. You would get an admirable committee from my country.

60,946. Can you suggest any other means than that of endeavouring to eliminate the political element in appointments?—I am afraid it would be a slow business and a difficult business; the more so because, as I say, everybody knows everybody in Scotland and about everything. I should not because I know it well, but many people here would be very much astonished if they knew how things go on in Scotland.

60,947. (*Mr. Boutwood.*) With reference to the question of responsibility to Parliament, I am not a politician, and I do not quite know how it works out, but I have always understood that judges are almost intangible, and the Lord Chancellor is the greatest of the judges. Can you call so august a person to book over his appointment at 100*l.* a year of “A” rather than “B”?—You ought to be able to do so. He ought to be as much called to account as any other Minister. I think part of his salary is on the Estimates, the greater part being on the Consolidated Fund; as I said before, the office of Lord Chancellor is such an extraordinary one that he is more difficult to get at, but that does not mean that he ought not to be got at.

60,948. I forget which list it is in, but in one of the lists of masters practically every name is obviously the name of some close connection of a judge. That may be perfectly legitimate, but it points to the existence of a strong sort of tradition. There is no need to describe that tradition, but it is reasonable to think that it limits the field of choice—I will put it that way?—I think that is true. Of course, you must remember that in England, as in Scotland and elsewhere, there have been great legal families with a talent that way, and very often it happens that a judge's nephew or cousin has got the real thing in him and it is known, and he is apt to get an appointment because it is there and it is known. There may be as good men who would not be known. Therefore, you must not, I think, press that too much; but it is no doubt true, as you say, that promotion has run in families.

60,949. I was not going to press it at all, but I was going to put a hypothetical question to you. Supposing you accept the view that the tradition is a limiting one, and supposing for some quite general reason you thought the limitation undesirable, what would you do to get rid of it?—I should vest all the appointments in the Lord Chancellor, aided by a com-

mittee; and, in order to get quite rid of it, I should vest them all in a Minister of Justice with a seat in the House of Commons aided by a proper staff.

60,950. (*Mr. Graham Wallas.*) I have here a list of the Lord Chancellor's officers. There are ten of them, and they constitute the administrative department through which the Lord Chancellor exercises his general control over the legal offices?—Yes.

60,951. They consist of the Permanent Secretary, the Secretary of the Commissioners of the Peace, the Secretary of Ecclesiastical Patronage, with a Purse-Bearer, a Junior Clerk of the Chamber, a Third Class Clerk, a Private Secretary, a Second Class Clerk, a Messenger of the Great Seal, and a Messenger of the Crown Office. That looks like a department which has not been deliberately contrived, but which has come together somewhat accidentally. Is that your impression?—It has grown up in course of time. In order to understand it you must remember that the office of the Lord Chancellor of to-day is an extraordinarily reformed office, compared to what the office of the Lord Chancellor was 60 or 70 years ago. In those days the Lord Chancellor lived in his house; he still wore, during most of the day, robes and a wig, because it was *de rigueur*. He drove down to the House of Lords in the afternoon to preside on the Woolsack, and to the Court of Chancery in the morning, where he heard causes on most days; but his business was done in his house. A great deal of it consisted in the use of the Great Seal, and in various other things which called these people—and there were more of them in those days—whose names you see into existence. They came into existence because the Lord Chancellor was an isolated figure who had certain physical functions to perform. He had to go along the corridors of the House of Lords with a train, and consequently he had a train-bearer. He had a purse which used to hold the Great Seal (it does not do so nowadays), which is a very heavy instrument, and he had a purse-bearer for that. His functions were so centred in himself that he did not want much more; it grew up in that fashion.

60,952. If it were desired that the Lord Chancellor or some future Minister of Justice should seriously undertake the administration of these great departments, do not you think that a more scientific organisation of his administrative office would be desirable?—A Minister of Justice would have the organisation of an ordinary department; he would not have any of those things I have mentioned. What the Lord Chancellor as Head of the Judiciary of the Empire might have is another question; he might possibly have something.

60,953. He might have a small office, but if he is really to do the administrative duties he is supposed to do, he wants a much more scientific and thoroughly organised office?—Far more.

60,954. The impression left on my mind was that the administrative office had worked admirably well owing to the personal qualities of Lord Muir Mackenzie, and it is very difficult to be sure you could get a second one?—He has been a most valuable element in it, and the Lord Chancellors who have come there are, after all, people who have had considerable experience of putting through a very large amount of business, and putting it through quickly. They know whom they can trust and whom they cannot; they are generally more or less judges of men, and if you have that and two or three competent people, it is wonderful what you can get done.

60,955. Pending the redistribution of the work of the Lord Chancellor and the appointment of a Minister of Justice—if for the moment that should be impossible—do you think there would be any advantage in creating another political officer sitting possibly in the House of Commons to help in the administration of the department?—I have heard of that suggestion, and I cannot say that I think it would come to very much, for this reason: nobody would very much care to represent the Lord Chancellor in the House of Commons, where he would have very little to do, and the position would go down in the distribution of political offices to somebody whose claims were more slender than those of men you would like to have, and the result would be that the Lord Chancellor would find himself put off with somebody who would have no influence at all. It is no use

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having a representative in the House of Commons unless that representative in the House of Commons can insist on having his way. I discussed these matters with Lord Muir Mackenzie, and I have seen the print of his evidence, and I think I agree with almost everything he said about other things; but about what goes on in the House of Commons, there I speak more as an expert than he, and I am quite sure that the kind of representative of whom he spoke would be practically useless. I think the best thing the Lord Chancellor can do at the present time is to get some powerful Minister like the Attorney-General, or even the Secretary to the Treasury, who is an important Minister, to represent him, and to establish (what does not exist at the present time) close contact between his department and that of the Minister. The relations between the Law Officers and the Lord Chancellor at the present time are very attenuated, simply for physical reasons; they do not come together. The result is that the Lord Chancellor has nobody who takes an interest in him in the House of Commons.

60,956. You would say that it is very desirable there should be a Minister responsible in the House of Commons?—Yes.

60,957. But that he must be a really responsible person with real power?—Yes; and as for appointing anybody as a representative (such as the representatives of the Charity Commission are to-day) without salary and without the weight which a well-known position gives, it would be no help to the Lord Chancellor.

60,958. Besides the Lord Chancellor's large responsibility for appointments in the London legal offices, he has a number of appointments scattered up and down the country, from those of justices of the peace down to clerks in registrars' offices and in the offices of County Courts, in the provinces, for which he is more or less responsible?—The appointment of justices of the peace used to be an enormous business, but now, as you know, under the Report of the Royal Commission, he has an advisory committee of his own in each county, which advise him and the Lord Lieutenant.

60,959. That is what I was going to lead to. He has divested himself of some of his burden, and at the same time probably very largely increased the efficiency of his action by having a local advisory committee in regard to these things?—Yes, I think it has worked very well. I am sure with the political pressure there used to be at one time about magistrates, that the committee has become established as *tabula in naufragio*, and a wise Chancellor will leave it alone. The advisory committee is the barrier.

60,960. Do you think an advisory committee or any committee could be set up which would help the Lord Chancellor in exercising his other local patronage?—I do not think a committee of that kind would be of any use. It is a different kind of thing you are dealing with. I should far rather have the committee we are discussing.

60,961. You think when dealing with County Court judges or the registrars, or other officers of the County Courts, or the local registrars of the High Court, you would rather it be done by the responsible committee in London with proper local advice and knowledge than by a local committee?—Yes, I would, much.

60,962. On the question of the appointment of women, you know that some of the more liberal universities throw open their legal studies and legal examinations—though not always the legal degrees—to women. Do you think that (subject to your condition that they must be withdrawn from public view and therefore from public prejudice) in such offices as the Land Registry, the Probate Office, and so on, women who had passed with great distinction a legal examination might be used for administrative work which requires legal knowledge, though not necessarily judicial decision?—I think so; but you must remember that the law is not a thing you can ever learn from books. Probably you can learn a great deal from books—that is the foundation of excellence in practice—but you must live in it. The law is a very jealous mistress, and you must take to it all the time in a way that you cannot in a library; it is nearly all practice really.

60,963. Is that the case even as regards such work as goes on in the Probate Registry?—There, I think, the business instinct of a good Civil servant is quite enough, with a little legal knowledge added. I think that might well be open to women. I mean, if you are going to put women into the sort of work that is required in the Land Registry, nothing short of the experience which men get just now will justify it.

60,964. (Mrs. Deane Streetfeild.) Mr. Graham Wallas has asked pretty much the question I wanted to ask; but if women were given the opportunity of service in these offices, apart from the legal posts, I suppose you would agree that there should be some definite and proper method of introducing them—some definite way of choosing them?—Certainly.

60,965. Such as in the proper Civil Service now?—Yes. It should be done, of course, in a systematic and regular way.

60,966. (Mr. Coward.) I was much struck with your view about a Minister of Justice. It is the first time we have heard that suggestion, I think. One of the things he would have in his hands would be the complete organisation of the legal offices?—Yes.

60,967. One of the complaints to-day, in my view, is that there is no organisation; that there is nobody who has any control over any particular offices. In theory the Lord Chancellor may have control, but practically, of course, he cannot do it?—Practically he has no control; and, secondly, if he had, you could not see him. He is such a busy person that he is not to be got at.

60,968. Take, for instance, a master: I should suppose that a master comes down in the morning to his room and he finds that his clerk has made for him a précis of his work to be done in the day—the summonses he is to have, and so on. He hears those summonses, and away he goes. He has nothing to do with the office, except, perhaps, seeing one or two of his clerks. He knows nothing about the great number of clerks who are there, and, as far as I have been able to ascertain, there is nobody who does know. I should suppose that your Minister of Justice would be able to so arrange the order of work in the office that it should be done with regularity, and somebody would know how it was organised?—He certainly would. He would have in his office, wherever it was, a member of his staff whose business it was to visit, inspect, and report to him on what was going on. If he heard that somebody's time was not occupied, or the business was put into a watertight compartment, that would be one of the things that would be dealt with by the Minister himself.

60,969. There is another thing which has been suggested to us when we criticised somewhat the length of the vacation, the hours of work, holidays, and so on—that it was idle for them to stop there till half-past 3 or 4 in the day, because there was nothing to be done; and that in the vacation you must have your watertight bulkhead that came down and shut off every bit of work from the 1st August until the 10th October. Perhaps we might, with the appointment of a Minister of Justice and the organisation that would arise from it, get some scheme by which some work could be done by those officials who were placed there?—You certainly would, and, if he was slow about it, you would on the vote of his salary, be able to move for a reduction of 100L., instead of having to do with people who are on the Consolidated Fund and who cannot be got at.

60,970. (Sir John Kempe.) Your lordship has spoken of a scheme for recruiting the legal offices by the system of selection which you described, and you said you preferred the system of selection to open competition by examination. I do not quite understand on what system the selection would be made. I suppose you would have applications sent in first of all, with certificates, and so on, and it would be so far an open competitive examination. Applications would be sent in and they would be examined by the committee?—What I should contemplate would be this: Laying down a rule that no one need apply unless he had the higher leaving certificate of a secondary school. That is the ideal system; I am not saying that you could

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carry it out all at once. Then you get your class, and you have perhaps three vacancies with ten men. Then you want somebody who has an aptitude for law and a little knowledge of it. In that selection I think probably your best course would be to have an examination which brought in law and which also gave marks for training in a solicitor's office. Just as the universities give marks for certain things and just as marks are given in the Civil Service examinations for certain things, so I should give marks for proper training in a solicitor's office—perhaps a good many marks—and thereby have a more competitive examination on the basis of the record ascertained by the certificate together with the legal requirements of which we have spoken.

60,971. Could not that be done by the Civil Service Commission and so make the system a part of the Civil Service system?—The Civil Service Commission might possibly carry out this process. The Civil Service Commission would see to it that the candidate was qualified by possession of the leaving certificate. Then they would have to find out what was the value of the candidate's experience in a legal office. They might have an office boy, for instance, who did not know anything about law, and that experience should count for very little, or they might have somebody who had assisted in drafting or preparing bills of costs, and so on, and had very useful training; but whether the Civil Service Commission could form a good judgment of those things I really do not know enough to say. They probably could get such assistance as would enable them to do this. I think there is a good deal to be said for the Civil Service Commission being primarily responsible for the appointment of the class of which we have been speaking, but they may have to get some assistance.

60,972. You could put the initial step in the hands of the Civil Service Commission and afterwards have the candidates examined by a committee to get a final selection for a particular post?—Yes, or at any rate give some assistance to the Civil Service Commission to consider what was necessary to be allowed for experience.

60,973. (*Sir Donald MacAlister.*) The Commission have been much exercised over this question of political appointments in Scotland, and a good many devices have been suggested for overcoming it. You spoke of a committee to assist the Secretary of Scotland. Do we infer from that that you would put all the appointments, which are now practically all made by the Lord Advocate, into the hands of the Secretary for Scotland?—No. I think the Lord Advocate's legal appointments are very valuable. The Lord Advocate has a large experience of life both at the Bar and in administrative affairs in Scotland, and I should say that, on the whole, from what I have seen, the Lord Advocate's appointments are very well made. They are political to a very great degree, and I should like to temper that very much, and for that purpose, I think, he might very well have a committee. Nobody likes to make political appointments when he has to explain to a committee that they are political. But as to transferring them to the Secretary for Scotland, I say, certainly not; I think the Secretary for Scotland has quite enough to do. I should like to see him have a committee.

60,974. At present the Lord Advocate is known to nominate, but the formal appointment is not necessarily made by him?—Very often.

60,975. Would it not be desirable to recognise facts and put the formal appointment in the hands of the Lord Advocate?—I do not think that very much matters, and I am all for leaving these things alone when they are working smoothly, because if you stir them up it very often results in appointments being taken out of the hands of the right man because nominally they belong to some other man.

60,976. Assuming that you recognised the fact that the Lord Advocate did effectively nominate, the kind of committee that might assist him ought to be one which included those who would know what he is supposed to know—the qualified, likely, and promising members of the legal profession, from among whom these appointments are made?—When you come to that kind

of appointment by the Lord Advocate, I am not sure that a committee is of great assistance. I was talking of such appointments by the Lord Advocate as are of a rather lower order. When you come to advocates depute, and so on, after all, just as you must trust the Lord Chancellor to select the judges and nobody else can really help him, probably the Lord Advocate knows better than anybody else and better than any committee what a man's qualifications are. The great point is, that for the lower appointments the committee would be an excellent mode of staving off very disagreeable pressure. I think we all of us have felt that. I have had a vast amount of patronage in my time to deal with in two departments, and I should have been thankful to have got rid of it altogether. The burden of it and the sense that you cannot overtake the work and make the best selection satisfactorily has almost made me feel that I should like, at any rate, to have somebody with whom to share the burden and responsibility.

60,977. I am thinking of appointments, say, under the rank of Principal Clerk of Session?—Then I think a committee would be a perfectly admirable institution for dealing with it.

60,978. In answer to the Chairman you indicated your general approval of the composition of a committee to assist the Lord Chancellor?—Yes.

60,979. Have you any idea of the composition of a similar committee that might assist the Lord Advocate, with a view to avoiding the particular danger in Scotland of the political element?—No, I am not enough in Edinburgh to be able to say. If I were much in Edinburgh I think I could conjecture.

60,980. Might I put this question: Would it be desirable to have the outside legal opinion and knowledge of a representative, say, of the Dean of the Faculty of Advocates on a committee to advise the Lord Advocate?—I doubt whether that would help very much. Are you talking of the subordinate appointments?

60,981. Yes?—Well, I am not sure. I think I should really prefer to let the Lord Advocate have the responsibility of selecting his own committee. I think it must vary from time to time; the Dean of the Faculty of Advocates might not be in the least a useful person. It depends entirely on whom he was; he might be a good man or he might not.

60,982. I am thinking of the question from the point of view of the knowledge of the available professional element which he would have?—If I were set to do it, even far away as I am from the centre of things in Scotland, I could choose at once men who would be perfectly admirable members of a committee of that kind—men I know about of the very greatest character, and who really would give the Lord Advocate the help he wanted; but I do not know that in the case of the higher legal appointments—and I am not sure that you are speaking of those at all—it would be desirable to bring in even those men. The Lord Advocate after all must have the responsibility.

60,983. I want to make this clear. Unless there is some ex-officio element on this committee, to leave it to the Lord Advocate to choose would be merely removing the political temptation one degree; he might nominate the whole committee of one complexion, and you would be no better off so far as public confidence was concerned?—I quite see your point there. All I mean is that if you take somebody ex-officio, you are apt to get somebody who is not very well suited for that difficult and delicate work. I do not see why the Civil Service Commission should not be represented upon that committee, and I do not see why from other public sources another representative might not be got. What I mean is that in a country where there are fewer people and fewer appointments to deal with, more depends on the individual, and you must leave considerably more latitude as regards your choice of individuals.

60,984. We might well have a representative of the Civil Service Commission on the committee as a permanent member?—Quite so.

60,985. He would be, I may say, non-political and ex-officio?—Yes, and that would apply to the Scottish Secretary's appointments as well as to the Lord Advocate's appointments.

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60,986. I am speaking only of the Lord Advocate's appointments at present. Can you suggest—because that is what we are desirous of discovering—other members of the committee who would not necessarily be also political nominees, as the Lord Advocate is?—Besides the Civil Service Commission representative? No doubt it would be very easy to devise a plan of that kind, but I should be anxious to get a committee which would work with the Lord Advocate. Lord Advocates are men of very high character and position, and they want to do what is right for the public, and you want to give them all the help you can give them and not be a hindrance. Speaking from my own point of view, if I were Lord Advocate, I should be thankful to have such a committee to be a barrier for me against the pressure that is notoriously put on.

60,987. I am assuming that the Lord Advocate will be grateful for such a committee?—Yes, we must assume that as the basis of it.

60,988. Yes; and we are trying to devise a committee which would have two qualities; one the containing of an ex-officio element not politically of one colour; and, secondly, that it should not change with the Lord Advocate, but be the repository of the knowledge of the staff—for it would have to serve for promotion as well as appointment—and knowledge of the material throughout Scotland likely to be valuable?—I think that is very good so long as you do not get on to the committee a permanent element so rigid that the Lord Advocate's life became a burden to him in working with that committee. That is a danger which you must bear in mind.

60,989. That might be helped by limiting the tenure of the members?—That might help.

60,990. But I think you see it is desirable that if the committee is to serve the purpose of somewhat changing the tradition of political appointments, the committee itself should not be open to the risk of being political?—Certainly, that is so. The difficulty is how to adjust it.

60,991. Secondly, it should not change with the Lord Advocate, or else it loses all continuity of information and influence?—I think a good deal could be done, but it would require study of the circumstances.

60,992. The number of high permanent officials who are not themselves political is not very great, from which one has to make a choice?—No, they are very few, unfortunately, and that is your difficulty in starting it. I am not sure whether you might not have to bring an Englishman from across the border.

60,993. The President of the Society of Writers to the Signet would have the same disability from your point of view as the Dean of the Faculty of Advocates?—It depends entirely on who he was. I have known such a man to be quite admirable. I think I would rather have him in some ways than the Dean of the Faculty of Advocates, because that would be rather the same thing over again, whereas the President of the Society of Writers to the Signet would be a business man.

60,994. Your outside member of the committee might conceivably be discovered there?—Yes, possibly.

60,995. In regard to the appointments that the Secretary for Scotland makes directly and upon his own initiative, would you also have a committee of a similar character?—Yes. You cannot do that with the higher appointments of a Minister, but all the minor appointments certainly I think should go to some organisation. If the Scottish Secretary sat at the head of an office and had all his staff by him, I should not think it necessary; but he sits in Dover House and has a certain number of people in Boards like the Local Government Board in Edinburgh. He is quite away from things, and therefore it seems to me he would be grateful for the barrier which such a committee would afford him.

60,996. That was covered by our previous reference on the general administrative Civil Service. The Secretary for Scotland has no special responsibility except through the Lord Advocate for the legal appointments?—Yes, the judges.

60,997. (*Chairman.*) The judges are outside our reference, but there are some appointments in the Register House for which he is responsible without the Lord Advocate's assistance?—Yes, and there is sometimes a little rivalry as to who has the appointment.

60,998. (*Sir Donald MacAlister.*) But wherever he has appointments such as we are considering now, without the Lord Advocate, it is desirable that he should have a similar committee to assist him?—Yes, I think what is true of one is true of the other.

60,999. (*Mr. Matheson.*) Mr. Shipley, who had to go away early, requested me to ask you this question: Whether, in view of the many duties of the Lord Chancellor, it is desirable to relieve him of his ecclesiastical patronage?—There you have raised a very interesting question. I do not know whether this Royal Commission wants to pursue it. The difficulty is this: there is an enormous mass of small livings—they are not all small, but there are over 600 of them, and the bulk of them are small. Who else is to administer them? It is not only a question of who will administer them best, but who will administer them least badly? It is a most difficult thing to administer that enormous mass of livings. If you throw them into the hands of the Archbishop of Canterbury you make him a Pope; you give him an enormous authority beyond what he has. That may be a good thing, but you are altering the position of the Archbishop. If you look about the Government to see what other Minister could take his duty, I do not know. On the whole, I think they are less unsafe in the hands of the Lord Chancellor than in the hands of any other Minister. He is detached, and may be supposed to approach the matter without twist towards the High Church or bias towards the Low. He is not easily got at, and he may have a really good and experienced secretary. It is not an ideal system, but there is something to be said for it. There may be a way of devising a system under which the ecclesiastical patronage could be more scientifically and thoroughly administered, but it is by no means obvious how it could be done.

61,000. For myself, I want to ask you this question: The general impression I got from your answer about recruiting the legal departments is that you think the primary condition of the efficiency of the departments is that those who enter the Service should have a really good secondary education, and that ought to be guaranteed?—Yes.

61,001. (*Miss Haldane.*) I do not think you were asked what your opinion was as to appointing a Woman Visitor in Lunacy. Have you any views about that?—I have had a very considerable experience—by letter only, I am glad to say—of lady lunatics, of whom there are a great many, both under the charge of the Lunacy Department—nominally of the Lord Chancellor, and it used to be really so—and the department of the Board of Control. The one thing that remains in the functions of the Lord Chancellor in relation to lunatics is that they are entitled to write to him, and at his private address, too. It is by statute an offence to prevent them sending the letters, so I have had a very large opportunity of seeing what sort of people write, and the bulk of my letters came from people of your sex. So that I gathered there was a very large field, and often there were cases where I should have liked to make investigation. My duty was to read those letters and satisfy myself that they were not merely the ordinary ravings of a person whose mind was disordered but whether there was something that needed inquiry, and I used very often to send down direct a special visitor. In the case of women, there is a great deal to be said, I am certain, for a woman visitor being available.

61,002. Would you appoint an extra one, or would you do away with the legal qualification and allow her to be put in place of the legal visitor?—I am not sure about doing away with the legal visitor. There are a good many questions which arise which are not medical at all in connection with these lunatics, and I think it is well to have somebody in reserve to send; it is very useful. I think I should prefer to have one of the two medical visitors a woman. I am talking now of the

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administration in Chancery by the Masters in Lunacy. There are two jurisdictions: The Lord Chancellor looks after the lunatics who have got property, and his jurisdiction comes entirely through their property. Their property is administered in lunacy by the Board of Lunacy, and the committee of the person is appointed only incidentally. The other jurisdiction is the jurisdiction over lunatics as such without reference to whether they have any property at all, and that has come to the Lord Chancellor by statute and in various ways, but it is quite apart from his position as head of the Court of Chancery. It comes to him as representing the Sovereign, who is *parens patriae*. So he has two bodies of lunatics to deal with. The Board of Control have very largely taken the second class over, but theoretically all questions affecting the liberty of the subject are left to the Lord Chancellor, and he is entitled therefore to send a visitor whenever he wishes. I think for both those classes it is desirable that there should be a woman visitor, and whether you could have an arrangement under which one lady did for both, or whether you took one of the existing lunacy medical visitors and appointed a woman there, is a question which would have to be considered in detail; but I am certainly in favour of having a woman visitor.

61,003. The appointment of women to certain offices in the legal departments, which you think would be desirable, would be very much simplified, of course, by the opening of the legal professions of solicitors and barristers to women. Would you agree with Lord Loreburn that that would be desirable?—Yes. I received a deputation on the subject when I was Lord Chancellor and gave great dissatisfaction to both branches of my profession by my answer.

61,004. But your personal view was very clear?—Very strong; I should throw both of those professions open. It has been done in other countries in the world, and I do not see why it should not be done here. It will be done before very long.

61,005. (*Mr. Graham Wallas.*) I understood you to say with regard to the political appointments to administrative posts that at present there is no strong feeling against the system in Scotland, to which Scotsmen have become largely accustomed?—No; they do not look upon it in the same way. It is habit with them. You must remember that for a very long time the whole of the government of Scotland—the whole of the patronage—was in the hands of the Lord Advocates in the marvellous days before the Reform Act. Scotland is accustomed to that, and it is only slowly growing away from it; but still the process is going on;

you must not, however, expect to see these things regarded with the enthusiasm on the other side of the Border that they are looked at elsewhere.

61,006. That is what I expected; but I want to put to you certain evidence given by apparently very responsible persons, whose position you would be able to estimate better than I could, indicating a contrary feeling. Mr. Walter James Lewis gave evidence on behalf of the Society of Solicitors in the Supreme Court, and said: "The system of political appointments should be absolutely done away with so far as possible." Then Mr. Boyd Anderson gave evidence on behalf of the Incorporated Society of Law Agents, and he said that the general opinion of the profession is against political appointments to administrative posts. Dr. David Murray, who gave evidence upon behalf of the Faculty of Procurators in Glasgow, said: "The view that because a man has been a political agent of some important person he shall therefore be appointed to an office in the Register House is entirely out of date, and I do not think anybody would be found to uphold it now. I think the legal profession in Scotland is all against it." Mr. J. H. Jameson said he was appointed by the Writers to the Signet to give evidence upon behalf of his Society, and in answer to a summing-up question, "The system which you describe is the political element which you tell us exists too much?" he said, "Yes." All those men were delegated to represent bodies which in your judgment are important bodies of legal professional opinion?—Yes, and no doubt they are expressing a very strong feeling of people about the thing, but Scotland is a very remarkable place. It is not given to that kind of enthusiasm. What I think is meant by people saying that things go slowly is that these appointments have never been regarded in Scotland as the burning and crying grievance that they would be if they were made in England.

61,007. But that evidence does represent that responsible professional organisations are now beginning to desire that this system should be changed, does it not?—Yes; these bodies would not express themselves in favour of political appointments. Some of their members, however, will still say: "The thing does not work as badly as you imagine," or "It works well," and you would find a great deal of scepticism about the Lord Advocate's committee and about other things; but that does not affect the case that there is a growth of opinion in Scotland in the direction which you indicate; and a growth of opinion of which, I have no doubt, this Royal Commission will take cognisance.

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APPENDIX XCI.

(Handed in by Sir Kenneth Muir Mackenzie, G.C.B., K.C.)

Vide Q. 43,957.

REPORT of the COMMITTEE appointed to inquire into the OFFICE of the MASTERS in LUNACY.

TO THE RIGHT HONOURABLE THE LORD
CHANCELLOR.

MY LORD,

In reference to your Lordship's letter dated the 15th June 1909, requesting us as a Committee to inquire whether the transfer of the business of the Masters in Lunacy (other than the holding of inquisitions) to the Chambers of the Chancery Judges (as recommended by the recent Royal Commission) is practicable, both as to effectual working in the interest of the lunatics and as to substantial economy, and, in the event of a transfer, whether any and what additional staff will be required in Chambers, and how far the existing Masters and their staff should be utilised, we have the honour to report as follows :—

The following attended and gave information on the matter before us, viz. :—

The Hon. Mr. JUSTICE JOYCE.	
Master FISCHER	} Lunacy Masters.
Master THEOBALD	
Master BAKER, Taxing Master.	
Master BURNEY	} Masters in the Chan-
Master LIONEL CLARKE	
Master FOX	
Mr. BEAL	} Registrars in the Chancery Divi-
Mr. FARMER	
Mr. METHOLD, Barrister-at-Law.	sion.
Mr. W. H. WINTERBOTHAM, Official Solicitor and President of the Law Society.	
Mr. ROGER GREGORY	} Solicitors.
Mr. EMERY	
Mr. CORLEY, Taxing Department of the office of the Masters in Lunacy.	
Mr. KEELY, Chief Clerk in the office of the Masters in Lunacy.	
Mr. STRINGER, Central Office.	
Mr. SARTORIS, Superintendent, Royal Courts of Justice.	
Mr. MILLS, Office of the Masters in Lunacy.	

1. Your Committee are of opinion that although the transfer of the business of the Masters in Lunacy, other than the holding of inquisitions, as recommended by the Royal Commission, might be practicable, it is not expedient, either as to effectual working in the interest of the lunatics or as to substantial economy.

The work of the Masters in Lunacy and their staff is seldom contentious and, to a large extent, is purely ministerial. Even their administrative acts are constantly preceded by correspondence, or by personal interviews with committees or receivers or relations of lunatics or solicitors acting for them, and in very many cases it is only when a course of action has been decided upon as the result of such correspondence or interviews, that application is made to the Master to give judicial sanction thereto, either by order or mere approval given without order.

As many as 2,000 letters on an average are annually written in the Lunacy Office giving advice as to lunatics' estates, and interviews must be at least as numerous. A large part of the work is *ex parte*, and anything wrong in an application or in the general management of a lunatic's affairs has often to be detected by the officials, and any criticism must come from them. In order effectually to carry out this work it is desirable that the whole information as to a lunatic's life, his property, and his family, should be constantly before one person as far as possible, and that all documents should be available for reference by the office at all times while the lunacy continues, and this usually extends during lifetime. The analogy, which seems to have influenced the Royal Commission in making their report, between the administration of

the estates of lunatics and of infants is only partially true. The Chancery Division has no separate record of its wards, and does not move until set in motion by the relations or others taking an interest in the ward. In the case of lunatics a far wider discretion has to be exercised as it becomes necessary to take up the administration of the estate of an absolute owner which has suddenly been interrupted by that owner's incapacity and to continue it for his lifetime, initiating action when occasion arises. This requires a procedure differing from that which the conditions of the Chancery Chambers readily afford.

The information obtained by your Committee, including that given by solicitors of large experience in the conduct of lunacy business, has satisfied your Committee that the Lunacy Department affords assistance and facilities for the dispatch of business of this character in an inexpensive and expeditious manner, which it would be difficult, if not impossible, to obtain in the Chancery Division.

Another advantage of retaining the Lunacy Department will be that, while full effect can be given to the recommendation made by the Royal Commission as to the holding of opposed inquiries into the sanity of an alleged lunatic by a judge of the High Court, unopposed inquiries will continue to be held as at present by a Master in Lunacy instead of by a Lunacy Commissioner as suggested by the Royal Commission. This practice would not only avoid giving additional work to the Lunacy Commissioners, but would also continue to give to the officer who ultimately has to deal with questions of property and maintenance the very valuable opportunity of seeing the lunatic and his surroundings.

The lunacy jurisdiction now exercised by the judges of the Court of Appeal would still be retained, except in respect of the trustee business referred to below.

2. Your Committee, while giving this general answer to the main question submitted to them, are of opinion that in the matters hereafter mentioned the judges and Masters in Lunacy might be relieved with advantage of part of the work now done by them.

Cases in which an appointment of a new trustee or a vesting order as to trust property is required in consequence of a trustee being of unsound mind should, in the opinion of your Committee, be dealt with by the Chancery Division, which at present deals with appointments of trustees and vesting orders in other cases in which the necessity for the court's assistance arises from some disability other than lunacy.

In order to give the Chancery Division complete jurisdiction to deal with all applications for appointments of trustees and vesting orders, it seems to us that it will be necessary to amend the Trustee Act, 1893, by the addition to the pertinent sections in the group headed "Appointment of new Trustees and Vesting Orders" of appropriate words extending those sections to the case of a trustee who is incapable of acting in the trust whether found of unsound mind by inquisition or not. It may also be desirable that this amending Act should repeal such parts of the Lunacy Act, 1890, as give to the Judge in Lunacy the jurisdiction which is transferred. It should also be considered whether it is advisable to add to the Rules of the Supreme Court a rule ensuring that applications for vesting orders, whether consequential upon the appointment of a new trustee or not, may in cases of incapacity be made in the Chancery Division as they now are in Lunacy, by summons and not by petition.

The business of making vesting orders affecting the lunatic's own property, or where the lunatic is a mortgagee in his own right, or where a committee of

the estate, on behalf of the lunatic, exercises a power of appointing new trustees, which by the present practice under the Lunacy Act, 1891, is done by the Masters in Lunacy should be continued as lunacy business and not transferred.

In cases where the lunatic is out of the jurisdiction, and property in this country has to be vested in a curator or similar person managing his affairs abroad, a vesting order should continue to be made by the Judge in Lunacy as at present, and the jurisdiction should not be transferred.

The transfer of what may be described as trustee business to the Chancery Division will afford considerable relief to the Lunacy Department, and will not involve any increase in the staff of the Chancery Division, and is quite practicable both as to effectual working in the interest of the lunatics and as to substantial economy.

3. We are of opinion that the Taxing Department of the Office of the Masters in Lunacy should be transferred to the Supreme Court Taxing Office, as recommended by the Departmental Committee in 1901, in like manner as if the same had been immediately transferred by Rule 3 of the Rules of the Supreme Court, January 1902. We think, however—

(a) That the Masters in Lunacy should be at liberty, unless the parties object, to assess the costs of passing committees', receivers', and other accounts, and of minor applications, and of all proceedings in cases of small estates where fees and percentage are remitted, and also, by request, to refer any costs (whether in an account or not) for taxation in like manner as if the same had been the subject of an order;

(b) That the Masters in Lunacy should also be at liberty to give a certificate of allowances for the attendance of counsel and solicitors attending before them as provided by Order 65, Rule 27, Regulation 16, and Appendix N., No. 152.

4. Your Committee would point out that in the Lunacy Department in 1908 the certificates and allocators for costs numbered 1,121, the amount of costs certified being 69,029*l.* 8*s.*, the fees payable being 982*l.*, or 1*l.* on the certificates, no fee being taken on allocators, or where, having regard to the smallness of the estate, no fees were taken. The volume of the bills of

costs is large, having regard to the amount certified, as compared with bills for a like amount as at present taxed in the Supreme Court Taxing Office. The certificate for costs in the Supreme Court Taxing Office has an impressed stamp of 10*s.* and *ad valorem* stamps at the rate of 2½ per cent. on the amount so certified.

Having regard to the percentage at present payable out of lunatics' estates, which produces a considerable surplus over the expenses of the Lunacy Office, your Committee are of opinion that the transfer of taxations to the Supreme Court Taxing Office ought to be so arranged as not to increase the aggregate charge upon a lunatic's estate. We therefore recommend that when the Taxing Office percentage of 2½ per cent. on the certified amount of costs, together with the fee of 10*s.* charged upon the certificates, exceeds the sum of 1*l.* now payable in the Lunacy Office, the excess should either not be charged, or if charged in the first instance for the sake of uniformity of practice, should be remitted to the lunatic's estate.

A rule may be required to provide for an appeal from a Taxing Master's decision in a lunacy matter.

5. If the transfer of the taxing business of the office of the Masters in Lunacy takes place it will be for your Lordship to consider whether the costs to be transferred should be referred to one or more of the Taxing Masters pursuant to Order 65, Rule 18, and whether this will necessitate the appointment of an additional Taxing Master with a clerical staff.

6. The transfer which we have recommended to the Chancery Division of the trustee business and to the Supreme Court Taxing Office of the taxing business will substantially lighten the work of the Lunacy Office, and we recommend that it should be considered as opportunities arise whether some reductions could not be made in the number of officers dealing with lunacy business.

7. Your Committee desire to acknowledge the services of their Secretary, Mr. Bayly.

Dated 3rd day of March 1910.

HERBERT H. COZENS-HARDY, M.R.

CHRISTOPHER JAMES.

J. W. CAWSTON.

EDWARD SHEARME.

W. ARTHUR SHARPE.

F. T. VILLIERS BAYLY,
Secretary.

APPENDIX XCII.

(*Handed in by Sir Kenneth Muir Mackenzie, G.C.B., K.C.*)

Vide Q. 43,957.

CHANCERY REGISTRARS COMMITTEE.

REPORT.

TO THE RIGHT HONOURABLE THE LORD
CHANCELLOR.

MY LORD,

IN December last you requested us to act as a Committee to inquire into the Office of the Chancery Registrars with a view to enabling you, in conjunction with the Treasury, to determine whether the establishment should be continued on the existing basis or ought to be modified in the direction of efficiency as well as economy. We have held many meetings, and have devoted much time and attention to the subject of the inquiry. We have had before us written statements by many persons qualified to give information and make suggestions, including Judges, Counsel, Solicitors' Clerks, Registrars, and Masters, and some of them have from time to time attended our meetings and expressed and explained their views

orally. The minutes of our meetings, including notes of oral evidence and copies of the several written statements above referred to, will be handed to your Lordship by our Secretary, Mr. F. T. Villiers Bayly, who has discharged his duties efficiently and pleasantly.

This Report is the result of our best consideration of the above materials, aided by the knowledge and experience which we have respectively been able to bring to bear on the subject.

Some members of the Committee desired that the Registrars' Office should cease to exist as a separate department, a sufficient staff being permanently attached to the Chambers of each pair of Judges of the Chancery Division to draw up all orders made by those Judges or by their Masters, whether in Court or in Chambers, thus carrying out, so far as the drawing up of orders is concerned, the recommendations of Lord Esher's Committee made in 1885 and approved

by the Council of Judges in 1892. The majority of the Committee, supported in this by all the Chancery Judges of to-day and those members of the Court of Appeal who were formerly Chancery Judges, took a different view, and at one of our early meetings the following resolutions were passed:—

- (1) That the Registrars' Office ought to be maintained as a separate department for the purpose of drawing up orders and attendance in Court.
- (2) That all orders which can be drawn up in common form ought to be made and drawn up in chambers.
- (3) That all other orders ought to be drawn up in the Registrars' Office.

Our deliberations have therefore proceeded on this footing.

The duties of the Registrars consist of—

- (1) Attendance in Court.
- (2) Drawing up orders.

According to the practice which has hitherto prevailed a Registrar attends each Judge sitting in Court and also the Court of Appeal taking Chancery Cases. This means that with the exception of Monday, when three Chancery Judges sit in Chambers and are attended by Masters, seven Registrars are in Court daily, and making allowance for the absence from illness or other cause the staff of twelve Registrars is not more than sufficient to supply the demand and to leave a proper number to do the other work. That other work, which is styled drawing up orders, really consists in revising and finally settling the draft orders which have been prepared by their clerks from notes taken by the Registrars in Court or transmitted by a Master from Chambers with the assistance of the endorsements on counsels' briefs, and in some cases of minutes prepared by counsel. The time occupied in this work varies considerably, some orders being long and of a complex character, and others being quite simple. Some part of the work is done without the attendance of parties, but for other parts the solicitors attend with or without formal appointment.

The number of orders passing through the Registrars' hands has largely decreased of recent years, and without going into statistics it may be said that the number at the present day is not more than half what it was 20 years ago. The decrease is largely in orders of a simple character, which never gave much trouble or separately occupied much time, including many which, according to the present practice, are not drawn up at all, but there can be no doubt that regarded as a whole the decrease in the number of orders and the simplification of their character have been such as to make it wholly unnecessary to maintain the present staff of 12 Registrars. Reduction of the staff presents a difficulty which can only be solved by making some arrangement under which the daily attendance of seven Registrars in Court would not be required. Notwithstanding some objections to dispensing with their attendance we have come to the conclusion that as regards the Court of Appeal and the three Judges, who, according to the present system, are engaged in trying actions with witnesses, the attendance of a competent clerk in Court would be sufficient. Some members of the Committee were disposed to think that the attendance of a clerk on the Judges taking non-witness business would also suffice, but the Judges consider the attendance of a Registrar as regards this class of business essential, and the Committee came to the conclusion that the number of the staff should be fixed on this basis, which will necessitate three Registrars being in Court daily, except on Mondays.

According to this arrangement, one of the duties hitherto performed by the Registrars themselves—namely, attendance in Court—will be largely performed by clerks, and it will be seen below that we propose also to give to their clerks additional duties in drawing up orders. Under these circumstances there cannot be any large reduction in the number of those clerks who belong really to the same class as the Registrars, though in different grades; but there can be in the number of junior clerks, which is certainly in excess of the requirements of the office.

It will be seen that as regards both Registrars and Clerks we propose such salaries as will effect a substantial diminution of the charges of the office, and this, combined with the reduction of the staff, will secure the economy which was one of the objects to which our inquiries were directed.

We recommend that the staff of the office shall consist of six Registrars, eight Principal Clerks, three Clerks, and three Assistant Clerks, and that this staff shall be divided into three groups, each of which will consist of two Registrars and Clerks adequate to dispose of the orders made whether in Court or in Chambers by one of the three pairs of Judges among whom the business of the Chancery Division is, according to the system now prevailing, divided. We further recommend that one group shall be attached to each of the three pairs, not permanently, but for regular periods of not less than one sittings, so that at the end of each period each group shall be attached to a different pair of Judges for the ensuing period. We have added as an appendix to this Report a table showing how this grouping would be carried out.

As regards the salaries of these officers, we recommend that the salary of the Chief Registrar, whose duties will be specified below, and who will be the Senior Registrar in one group, be 1,600*l.*, that the salary of each of the other two Senior Registrars shall be 1,500*l.*, and that the salaries of the remaining three Registrars shall be 1,200*l.*, rising by annual increments of 50*l.* to 1,400*l.* As regards the salaries of the clerks, we recommend as follows: that the salary of each Principal Clerk be 600*l.*, rising by annual increments of 25*l.* to 800*l.*; that the salary of a Clerk be 250*l.*, rising by annual increments of 15*l.* to 400*l.*; that the salary of an Assistant Clerk be 100*l.*, rising by annual increments of 10*l.* to 200*l.*

The existing arrangements with regard to pensions seem capable of being adapted to the new staff, on the footing that the Principal Clerks recommended by this Report take the place of the present Clerks to the Registrars.

The qualification to be required of Registrars and clerks is a matter for serious consideration, and the Committee are not all of one opinion on the question whether these offices should be thrown open to members of the Bar as well as to solicitors. The result of our discussions is expressed in the following resolutions:—

1. That the qualifications necessary for appointment as an Assistant Clerk be those required for an appointment as a Third Class Clerk of the Supreme Court.
2. That to be qualified for the appointment of Clerk, a candidate shall have been called to the Bar or admitted a solicitor.
3. That to be qualified for the appointment of Principal Clerk a candidate shall have had three years' experience in the office as a Clerk, or be a practising barrister of five years' standing, or an admitted solicitor of five years' standing.
4. That Registrars shall be appointed from among the Principal Clerks of three years' standing, but that in the event of there being no such Principal Clerk competent to perform the duties of Registrar, a vacancy may be filled by a practising barrister of 10 years' standing or a practising solicitor of 10 years' standing.
5. That on a vacancy occurring in the office of Senior Registrar of a group or of Chief Registrar, it shall be filled by the promotion of any one of the other Registrars.

In connection with this part of our subject we further recommend that appointments and promotions be made by selection and not by seniority, and that power be taken to remove any officer for sufficient cause shown.

The staff which we recommend is that which in our opinion ought to be sufficient for all the duties of the office when remodelled according to our proposals. Obviously the plan can come into operation only by degrees, and cannot be in perfect operation until the number of Registrars has been reduced to that which we suggest as ultimately sufficient. In the meantime the office must work more or less on the present lines

and in particular Registrars must attend the Court of Appeal, and the Judges taking witness actions, but as the number falls below what is required for this purpose clerks will take their place. It may be possible at once to carry into effect the system of attaching Registrars and staffs to pairs of linked Judges by appropriating to some of the Registrars duties which under that system will ultimately be performed by Principal Clerks.

Until the whole scheme comes into operation it will be difficult to say that the staff of clerks recommended will be sufficient and no more than sufficient to discharge the duties attached to them. We believe that this will be the case, but some redistribution of work will from time to time and eventually be necessary, and our recommendation as regards the number of clerks must be taken with a reserve that some modification may be required.

Certain clerks now attached to the Registrars' Office, and treated as part of that office, perform duties which are distinct from those above described. These are:—

- (a) The petition clerk, who receives and enters all petitions, whether petitions of course or special petitions—draws up the simpler orders of course, and refers petitions to be heard in Court to the proper Judge.
- (b) The entry clerks, who copy all orders when settled and file the originals by way of record.
- (c) The cause clerks, whose duty it is to keep the lists of all causes and matters in the Chancery Division—a duty which involves recording all directions given respecting the order of business, and to arrange the Daily Cause List for all the Chancery Judges.

The work of the petition and entry clerks will be very largely reduced if Orders of Course are made and drawn up in Chambers, and all orders are printed as suggested in this Report; and apart from this, we see no reason to doubt that the duties of these clerks may be assigned to some of the staff, according to our scheme.

The Cause Clerks, however, must work separately, and cannot be conveniently included in the grouping arrangement. It may, therefore, be necessary to have for this purpose one Clerk, or possibly two Clerks, independent of the rest of the staff, but under the supervision of the Chief Registrar.

There is one blot in the existing system which we wish to see removed under the new arrangements. The present Senior Registrar has certain duties imposed on him, being mainly those of attending to the correspondence of the office and answering inquiries whether by Judges or others respecting the practice, but in other respects he is on an equality with his brethren, and is in no wise responsible for them or for the management of the office. In truth each Registrar is a separate head of his own department. To meet the obvious objections to this state of things we propose:—

1. That the Senior Registrar of each group be responsible for the work and staff of that group.
2. That the Chief Registrar shall have the following duties in addition to those imposed on him as the Senior Registrar of a group, namely:
 - (a) To conduct the official correspondence of the office.
 - (b) To arrange with the other Senior Registrars any matter which affects the grouping.
 - (c) To control any officers not attached to a particular group—*e.g.*, the Cause Clerks.
 - (d) To control the Principal Clerks attending the Court of Appeal and to exercise general supervision over the other Registrars, but not over their clerks.
 - (e) When required by any Judge, to assist such Judge by inquiring into and reporting upon points of doubt relating to

practice, and when any such point of doubt has been decided, to see that the decision is communicated to all the groups.

(f) To entertain any question arising in the office respecting discipline or otherwise which may be referred to him by the other Senior Registrars.

We have obtained much information respecting the manner in which the business of the Registrars Office is at present conducted. The ultimate results may be satisfactory, but there is much unnecessary delay in drawing up orders, and it is needless to say that delay in many cases involves injury to the suitors, which ought as far as possible to be avoided. In considering this subject we have informed ourselves of the steps taken towards drawing up orders whether made in Court or in Chambers, but we have not deemed it convenient to report on this in detail. We hope that when the staff of Registrars and clerks has been reduced to proper limits, and under the arrangements above proposed the work has been distributed as recommended and efficient control has been established, many occasions of delay will be removed or will be checked by that control. But we make the following recommendations of a detailed character, because effect might be given to them under the present system, and, if adopted, they would, in our opinion, largely conduce to the efficiency of the office.

At present the Principal Clerks draft orders from notes made by Registrars in Court or notes transmitted by the Masters from Chambers. On these drafts they make such observations in the nature of queries as their experience suggests, but, notwithstanding that the same experience would enable them to dispose of the queries if they had the opportunity of doing so, this is not done because all questions on the draft orders are reserved for the Registrars. We think that the clerks drafting orders should be empowered to give appointments to solicitors and to settle all formal matters arising on orders, submitting only the final settlement to the Registrar. The Registrar should, we think, require the attendance of the parties or not as he thinks fit, but he should in all cases be responsible for the order. This additional duty of the clerk should be limited by a provision that any solicitor attending him shall be at liberty to adjourn to the Registrar any question on which he desires the Registrar's decision.

At present when an order has been drafted by the clerk no notice that it is ready is given to the solicitor having the carriage of the order, but the solicitor having ascertained that the draft is ready makes an appointment for settling it with the other solicitors concerned. This is a fruitful cause of delay, and we think that when a draft order has been prepared notice thereof should be sent immediately from the office to each of the solicitors concerned, together with a copy of the draft order, and also notice of the appointment to settle fixed by the officer by whom the appointment is made.

At present the Master's note of an order made in Chambers is called for by the solicitor having the carriage of the order and taken by him to the Registrars Office. We think that it ought to be sent direct, and as soon as possible, from the office of the Master to the Registrars Office, where the rule proposed in our last recommendation should likewise be followed.

We further think that it would facilitate the work of the office if, subject to exception for special cause, all orders, instead of only those of a certain class, as at present, were printed, provided adequate arrangements are made for avoiding delay.

The use of shorthand writing facilitates despatch in all departments of business, and we venture to suggest, as a matter for consideration, whether it would not be well to promote it at least among the assistant clerks.

Some members of the Committee have expressed their own opinions on certain points about which we are not altogether agreed in memoranda which will be found appended hereto, and their concurrence in this Report must be taken to be subject to these expressions of opinion.

This result of our labours we respectfully submit to your Lordship's consideration, and

We have, &c.,

ARTHUR KEKEWICH, *Chairman*.
CHRISTOPHER JAMES.
WM. H. WINTERBOTHAM.
J. P. CROWLY.
J. ROGER B. GREGORY.
CHARLES S. STEWART.

F. T. VILLIERS BAYLY,
Secretary.

27th June 1907.

APPENDIX.

Registrars.	Principal Clerks.	Clerks.	Assistant Clerks.
GROUP I.			
Chief Registrar - -	} Four	One	One
2nd Registrar - -			
GROUP II.			
1st Registrar - -	} Two	One	One
2nd Registrar - -			
GROUP III.			
1st Registrar - -	} Two	One	One
2nd Registrar - -			

MEMORANDUM by Mr. JUSTICE KEKEWICH.

So much of the Report of the Committee as recommends the grouping of the Registrars and their staff, that is the attachment of two Registrars and their staff to each pair of linked Judges is, in my opinion, objectionable, on the following grounds :—

- (1) I regard it as a step towards the amalgamation of the Registrars' Office with the Judges' Chambers, which is to be deprecated.
- (2) The constant circulation of the Registrars among the different Judges is valuable in assisting to secure uniformity of practice. The attachment of Registrars to certain Judges is adverse to this. The ill effect is intended to be obviated, but is not, I think, removed by the rotation recommended in the Report.
- (3) By attaching Registrars and their staff to particular Courts it is intended to put them more directly under the control of the Judges than at present. I do not believe that this result will or can be thus attained, and it is mischievous to raise illusory hopes.
- (4) The great blot on the present system is, to my thinking, the absence of a superior officer controlling the entire staff and responsible for the business of the department. The proposed plan fails to secure this. I cannot believe that making one of the two Registrars in each group superior to the other would be any efficient improvement on the present system.

ARTHUR KEKEWICH.

MEMORANDUM by Mr. JAMES.

I have signed the Report, but I desire to state that I do not approve of the proposal to divide the Registrars and their staff into three groups. Such a division is not necessary for carrying out the other recommendations contained in the Report, which are equally applicable, whether the division be made or not. The materials which were before the Committee did not satisfy me that any benefit would result from

the proposed division, while on the other hand to keep the office as one department (with the addition of a Chief Registrar having control over the whole) would, in my opinion, better secure uniformity in practice and also afford greater facilities for organisation, and for dealing with extra work caused by illness or other cases of emergency. I cannot find that any one of the Judges or officials who assisted the Committee with their views expressed an opinion in favour of the proposed division into groups, and some of them certainly were opposed to it.

CHRISTOPHER JAMES.

MEMORANDUM by Mr. STEWART, Mr. WINTERBOTHAM, and Mr. GREGORY.

In recommending that the staff of the Registrars Office be divided into three groups, each adequate to deal with the orders made by one pair of Judges and their Masters, we recognise that if this proposal be carried out it will be easy, if thought desirable, at any future time to carry out in its entirety the recommendations of Lord Esher's Committee, referred to in our Report, with which we are in accord.

The evidence given before us shows that in the Lunacy Department and in the Companies' Winding-up Department the orders are drawn up by Principal Clerks who are members of the staffs of these departments, and who attend in Court when necessary. These orders are numerous, and are often long and complicated, but the work appears to be done in a satisfactory manner, and we see no reason why the same arrangement should fail to work satisfactorily in the Chancery Division.

We are of opinion that the existence of well-known books of precedents which are in daily use in the office, and the constant opportunities of conference between the Registrars of the three groups which would be possible where officials occupy one set of offices, would sufficiently secure uniformity of practice without the necessity for moving the Registrars and their staffs in the way suggested in the Report.

Having regard, however, to the views expressed by the Judges on this point, and as to the desirability of continuing the Registrars' Office as a separate department, we do not feel justified in urging our individual views further.

WM. H. WINTERBOTHAM.
J. ROGER B. GREGORY.
CHARLES S. STEWART.

MEMORANDUM by Mr. WINTERBOTHAM and Mr. GREGORY.

We see no reason for altering the present statutory qualifications under which a Registrar or a clerk to a Registrar must be a qualified solicitor.

The only reason suggested for the change is that it will widen the area of selection, but the same reason would justify the appointment of solicitors to County Court Judgeships, or to any other of the higher judicial offices now open only to the Bar.

It cannot be seriously contended that there is any lack of solicitors competent to perform the duties of drawing up the orders made by the Judges and Masters in the Chancery Division. The duties of the Registrars, including the control of a staff of clerks, can, we submit, be best performed by men trained as solicitors, and to admit members of the Bar to these less important legal posts, while excluding solicitors altogether from the higher offices is, we think, unreasonable.

We cannot overlook the fact that appointments which are open to both branches of the profession tend to be monopolised by the Bar, as in the case of Masters of the King's Bench Division, who are now all barristers. Even the posts of solicitors to the great public departments (which, but for special legislation, could only be filled by solicitors) are largely held by members of the Bar, and if the change suggested by the majority of the Committee is made, we feel sure that a strong (and in our judgment a reasonable) protest will be made by solicitors.

WM. H. WINTERBOTHAM.
J. ROGER B. GREGORY.

APPENDIX XCIII.

*(Handed in by Sir Kenneth Muir Mackenzie, G.C.B., K.C.)**Vide Q. 44,137.*

MEMORANDUM PREPARED BY SIR KENNETH
MUIR MACKENZIE, G.C.B., K.C., FOR THE
CHANCERY REGISTRARS' COMMITTEE in 1907.

If the existing system of separate departments in the Chancery Division is to remain, the question is how far it should be modified. It is not too much to say that the Registrars' Department (in spite of considerable recent reductions) is established on a scale quite unknown in any other part of the public service, and even in the other divisions of the High Court itself, officers are usually graduated like a pyramid, here the pyramid stands on its apex. If such an office were being constituted afresh, it would probably be in some such form as this:—

One Head, then 6 Registrars, then 6 Assistants, and beneath these 12 to 18 clerks in three grades.

If the existing system is to remain substantially unaltered, the numbers specified below would be sufficient staff for the department, but it seems to require consideration whether the recommendations of the Chancery Committee of 1885 (whose report will, no doubt, be before the committee) have been thoroughly and uniformly acted upon as to the drawing of orders in Chambers. It is said that, in some of the Chambers at least, the business has been lighter than it need be, and this may arise partly from a difference of practice as to sending over orders to the Registrar. If all the Chambers carry out the drawing of orders to the full extent contemplated in 1885, the reduction in the Registrars' Department might perhaps be considerable. The attachment of two full Registrars to every Court is magnificent but it is not business, and it is in relation to that part of the system where the most important reduction can probably be made. The present practice involves the assumption that no Principal Clerk, however able, and however long his service, is qualified to sit in Court, but on the day when he succeeds to a Registrarship, he instantly becomes endowed with that capacity.

The following is the staff suggested:—

- (1) A Senior Registrar, for general supervision of the office and for attending the Court of Appeal, at a salary of 1,600*l.* a year.
- (2) Six Registrars, one for each Court, at 1,500*l.* a year.
- (3) Six Assistant Registrars, one for each Court, at 1,000*l.* a year.
- (4) Six Principal Clerks—
2 at 800*l.* a year.
2 „ 600*l.* „
2 „ 400*l.* „
- (5) Six Junior Clerks at the ordinary salaries of Second Class Clerks in the Supreme Court.
- (6) Six Third Class Clerks at normal salaries.

As regards qualification a Registrar should be appointed from amongst Solicitors of ten years' standing or from amongst the Assistants of ten years' standing. The Assistants should be appointed from amongst Solicitors of five years' standing, or from amongst the Principal Clerks of ten years' standing. There should be no right of succession.

The Principal Clerks should have professional qualifications either as Barristers or Solicitors, and should be eligible for appointment as Assistants. The other clerks should have the usual qualifications for offices of the Supreme Court.

The transition of the present staff to the standard above mentioned has been rendered comparatively easy by the nature of the appointments made during the last 20 years.

There is at this moment only one of the Principal Clerks with the statutory right of succession to a Registrarship; five others have been appointed with

notice that they have no vested right of succession; three others have been appointed simply as Second Class Clerks in the Supreme Court, and have no better rights than any other clerks in the Chancery Division, except the advantage and opportunity which any of them has of showing himself to be a desirable man to retain and promote in the department.

The committee will no doubt consider carefully the Act of 5 Vict. c. 5. relating to the Registrars' Office. It has never been specifically repealed by any of the Statute Law Revision Acts, which have removed from the Statute Book all the various enactments superseded by the Judicature Acts. The only reason for this has probably been that the clerks to the Registrars were supposed to be anxious that their statutory right of succession should not disappear from amongst the Acts of Parliament, though the savings in the Judicature Act did, in fact, absolutely preserve all their rights. The powers under the Judicature Acts for regulating, from time to time, the numbers, duties, and salaries of the officers in the different departments are very full, and undoubtedly enable any reconstruction of the Registrars' Office to be made which may be desirable.

The foregoing remarks and suggestions are intended to apply only in the event of the committee considering it expedient that the office should remain a separate department, but this inquiry raises at once the question whether it should so continue. This question was dealt with to some extent by the Chancery Committee in 1885. It is to be observed that there is no separation of this kind in any other part of the legal system; not in any other division of the High Court itself; not in the Counties Palatine; not in the district registries; not in the county courts. The foundation of it probably is to be found in the principle of the division of labour where there is a concentration of important and complicated administrations, which applies to the Chancery Division more than to any of the other courts referred to. There has been a very considerable change in that respect since 1883, when the use of the originating summons greatly reduced the number of prolonged administration actions. The office may be required for some of the larger class of Chancery cases, if it be thought that the existing system is altogether the best for dealing with them. It must not, however, be forgotten that in these larger cases it is now the practice to do a great deal by minutes drawn by counsel and submitted to the Judge. But it is certainly open to doubt whether the Master, who has seen the case from the beginning, who is acquainted with its details, and the manner in which it has been conducted, is not the best person to carry out and give effect to the determination of the Judge at the hearing. Even in respect of qualification the Master might well be considered the better man. He is selected from amongst practising solicitors of ability and experience; it is his business to draw the orders in a numerous class of cases, and if it were part of his work also to be responsible for the larger orders there can be no doubt as to his ability to do them. The Registrar, on the other hand, under the existing system has no professional experience except to the extent of having served his articles before appointment as a clerk, and from the time of his appointment as a clerk until he succeeds to a Registrarship the field of his duties is strictly circumscribed, and though he becomes a specialist it is undoubtedly one of those cases where special knowledge really means limited knowledge.

If it were determined to consolidate the Chancery offices, the plan would probably be to add two Masters to each of the three branches of the Chancery Chambers and to divide the cases amongst the six Masters of each branch, the Master carrying out the whole business of any case assigned to him except the taxation. The amount of business coming before the Judges themselves would not be affected. The Judge

would see a larger number of Masters, but each Master would bring before him a smaller number of cases.

The difficulty of the transition from the old to the proposed state of things would not be so difficult as appears at first sight. For a certain period the transferred officers might devote their attention in Chambers to that part of the work which they have been specialised, but there, at any rate, who are men of

ability would before long be able to take their full share of the Chamber business, just as, on the other hand, the existing Masters would soon be familiar with the drawing of orders, however important. There might be cases of officers whom it might not be thought desirable to attempt to employ under the new arrangement. If these could not be employed on any analogous duties they would no doubt have to be compensated if they lost their offices.

APPENDIX XCIV.

(*Handed in by Sir Kenneth Muir Mackenzie, G.C.B., K.C.*)

Vide Q. 44,160.

DRAFT REGULATIONS for LEGAL DEPARTMENT prepared in connection with the JUDICATURE BILL, 1893.

This Order shall apply to all officers of the Supreme Court being for the purposes of salary and pension Permanent Civil Servants of the State. In this Order "Master" shall include any officer having the rank of Master, Assistant Master, Registrar, or Assistant Registrar, Taxing Master, or Chief Clerk in any of the Legal Departments; and "Clerk" shall include any officer classified as a principal, or first, second, or third-class clerk in any of those departments, or in the Lunacy Offices.

1. Every clerk hereafter certificated by the Civil Service Commissioners for appointment to the Legal Departments shall be subject to a strict probation for a period of not less than one year, during which his conduct and capacity in the transaction of business shall be subjected to such tests as may, with the approval of the president of the division and the concurrence of the Lord Chancellor, be determined by the senior master of the department to which he is attached, and he shall not be finally appointed to the Public Service unless his period of probation shall furnish to the president of the division, with the concurrence of the Lord Chancellor, satisfactory proof of his fitness to be permanently employed in that department.

2. All officers appointed after the date of this Order, and all existing officers who shall, after the date of this Order, by promotion or otherwise, rise to any office or class carrying increase of salary, immediate or prospective, shall be liable to give an attendance of not less than seven hours a day and four hours on Saturday, without any addition to the rates of salary in force at the date of this Order for a daily attendance of six hours: Provided that no person promoted to a higher post shall in any case suffer immediate pecuniary loss by such promotion.

3. Where clerks are promoted from one class to another, the selection shall be strictly according to merit, and subject to the following conditions:—

- (1) That there is a vacancy in the higher class which, under the arrangements sanctioned for the time being by the Lord Chancellor and the Commissioners of the Treasury, it is desirable to fill up by promotion;
- (2) That the clerk proposed for promotion has been reported by the senior master of the division or department in which he is serving fit to discharge the duties of the higher office.

4. The ordinary annual holidays allowed to clerks shall not exceed 36 week days during each of their first 10 years of service, and 48 week days thereafter, exclusive in both cases of Christmas Day, Good Friday, the Queen's Birthday, and (subject to the convenience of the Public Service) other days when the Courts and offices are closed: Provided that nothing in this clause shall affect the rights of existing officers who, under the regulations of the respective departments in which they are serving, are entitled to holidays in excess of those herein prescribed.

5. Sick-leave may be granted by the senior master of a department for any period not exceeding one month to any clerk serving in such department, subject to the following conditions, viz.:—

- (1) After four days' continuous absence a certificate by a duly qualified medical practitioner shall be required.
- (2) If the number of days during which any clerk in any year is absent without such medical certificate shall exceed seven in the aggregate, the number of days by which such aggregate period of absence exceeds seven may be deducted from the amount of ordinary annual holidays which may be allowed under clause 4 of this Order.

6.—(1) Continuous sick-leave on full salary may be granted to any officer by the president of the division, with the concurrence of the Lord Chancellor, for any period not exceeding six months; and at the expiration of such six months the president of the division, with the concurrence of the Lord Chancellor, may at his discretion grant further leave, with salary at half the ordinary rate, for any period not exceeding six months.

(2) After 12 months' continuous sick-leave no officer shall be paid any salary except on the recommendation of the Lord Chancellor, with the consent of the Commissioners of the Treasury, who may at their discretion, in special circumstances, allow payment of salary during any further period of sick-leave at a rate not exceeding the amount of pension (if any) for which at the expiration of 12 months' sick-leave the officer would have been qualified.

(3) Cases of repeated but not continuous sick-leave amounting in the aggregate to upwards of 12 months during any period of 18 months shall be reported to the Commissioners of the Treasury, who shall, with the concurrence of the Lord Chancellor, decide the payments in respect of salary to be made during such sick-leave.

(4) In the absence of any officer such arrangements may be made for the performance of his duties by the other officers of the department, or by additional assistance, or by deputy as the president of the division, with the concurrence of the Lord Chancellor, may approve; and if it is necessary to obtain additional assistance or to appoint a deputy, such payment of the assistant or deputy shall be made (except where the absent officer has arranged to pay him) by the Treasury, as the Treasury may, with the concurrence of the Lord Chancellor, under the circumstances direct.

7. An attendance book shall be kept in every department for the purpose of recording times of arrival and departure of the clerks.

8.—(1) It shall be competent for the Lord Chancellor to call upon any master to retire at the age of 70, on such pension as by the length of his service he is qualified to receive; but the Lord Chancellor may, by order to be laid before Parliament, extend any master's employment for a further period in no case

exceeding five years, on being satisfied that such master's retirement at 70 would be detrimental to the interests of the public service.

(2) It shall be competent for the Lord Chancellor to call upon any clerk to retire at the age of 60, on such pension as by the length of his service he is qualified to receive; and retirement shall be compulsory for every clerk on attaining 65 years of age, except in any case where the Lord Chancellor shall extend the clerk's employment for a further period in no case exceeding five years, on being satisfied that such clerk's retirement at 65 would be detrimental to the interests of the public service.

(3) Any existing officer who shall be called upon to retire under the provisions of this Order, and who by virtue of his tenure of office would not otherwise have been liable to such retirement, shall receive the highest pension attached to that office.

(4) Provided also, that nothing in this Order shall prevent any officer from resigning his office on attaining the age of 60, and obtaining, without medical certificate, the pension to which he is then entitled.

(5) This rule shall not come into operation until the first of April 1894.

9. No officer shall be allowed to accept any part in the management of any society, or any trading, commercial, or financial company of whatever description, which would require the attendance of such officer at any time between the hours of 10 a.m. and 6 p.m.

10. This Order, so far as it applies to masters, shall extend to the masters and Visitors in Lunacy and the Official Referees, and to the Admiralty Marshal.

11.—(1.) At the beginning of each legal year the Lord Chancellor shall nominate four masters of different departments to serve on a consultative committee to report upon questions of staff, salary, and organisation for the year then beginning. In addition to such four members the Permanent Secretary and a person selected by the Commissioners of the Treasury shall serve on the committee.

(2) If the particular department concerned in the inquiry be not represented on such committee, there shall be added to it for the particular occasion a representative of such department.

(3) If the department concerned in the inquiry be represented on such committee, there shall be added for each occasion one other temporary member, being a master in some other department.

APPENDIX XCV.

(*Handed in by Mr. Alfred Musgrave.*)

Vide Q. 44,513.

STATEMENT as to the WORK of the PRINCIPAL PROBATE REGISTRY and the DISTRICT PROBATE REGISTRIES.

WORK.

The work of the Principal Probate Registry consists of probate contentious and non-contentious business as defined in the rules, and business in connection with divorce and other matrimonial causes.

Distribution among Registrars.

The work of the Registrars is now divided as follows:—

One Registrar is in attendance at the Courts of Justice on the hearing of probate actions and matrimonial causes, and also in the Appeal Court on the hearing of appeals from this division. The Registrar draws up decrees and orders of the Court, and takes notes which may be of use on taxation of costs, and makes abstracts for the Judge of motion papers, and attends the Judge in chambers, where summonses are heard, some of which are on appeal from orders made in the Registry. There are frequently two Courts sitting to hear probate and divorce causes, when the Registrar and his clerk are fully occupied.

One other Registrar is fully employed with taxing bills of costs and dealing with references as to alimony, maintenance, variation of settlements, access to children, and questions of ownership of property under section 17 of the Married Women's Property Act, 1882, &c. This work has increased very much of late, and assistance is from time to time required from the other two Registrars to prevent arrears.

The other two Registrars deal with all questions arising in the Registry as to the applications both in the Principal and District Probate Registries for grants of probate and administration (the number of grants in the Principal Registry in 1913 being 37,578, and in the District Registries 34,489) and approve and sign the grants of the Principal Registry and various orders—such as alterations of grants, revocations, &c., and conduct the necessary correspondence with the District Registrars, and hear summonses, and deal with applications for certificates as to the pleadings in matrimonial causes being in order, and applications under the new poor persons' rules. One of them is always accessible to the public. The work in connection with the control of the staff, correspondence with public departments, and other duties of the Senior Registrar also occupy a good deal of time.

Clerical Work.

By far the larger part of the clerical work in the Principal Registry is in connection with the applications for grants and the subsequent recording and filing of wills and other documents.

DEPARTMENTS.

Receiver's Department.

Papers to lead the grant when applied for by a solicitor are taken to the Receiver's Department, which consists of the Receiver and two assistants. His duties are to see that the estate duty (if any payable) has been paid, to assess the court fees, and to give a receipt for the papers.

The applications for administration are then forwarded direct to the seats, and the papers for probate or administration with will to the Scrivenery Department, for examination of the will with the engrossment. He also acts as stamp distributor.

Seats.

There are six seats. In each a principal clerk of seat with four assistants, of whom two are generally in the second class.

The principal clerk and his first assistant examine critically all papers brought in to lead grants, and satisfy themselves as to validity of wills and due execution of the same, and titles to grants, and settle draft oaths to lead special or limited grants, and deal with alterations in wills and questions of incorporation and domicile. They have also to check the notices of applications for grants received from the District Probate Registries.

It is necessary that the clerk of the seat should have a thorough knowledge of the practice of the Court and be well acquainted with the laws respecting wills and administrations.

When all queries are removed the junior assistants prepare the grants, records, and calendar slips, and search caveat books, and enter and check calendars, and the grants when initialled by the clerk of the seat, and sent forward to the Registrar for signature.

Personal Application Department.

In this department applications for grants can be made by persons without the intervention of a solicitor.

The staff consists of a chief clerk in the first class and seven assistant clerks, of whom two are now in the second class. The clerks have to prepare the papers to lead the grant and the Inland Revenue affidavits and to do more or less solicitors' work. The papers when completed are proceeded with at the seat in the same way as solicitors' cases.

Papers received through Inland Revenue officers are also dealt with. A number of the applicants are very ignorant, and great care is required in taking down their instructions. The work in this department has much increased, and before long more accommodation will be required.

Calendar and Searching Department.

This department consists of a chief clerk in the first class and nine assistants, of whom three are now in the second class. The searches in every case before a grant is issued are made by the staff as well as the lexicographical annual printed calendar of grants in the Principal and District Registries.

Sealer.

The sealer, a second class clerk and two assistants, when the grants are signed by the Registrar, separate the papers from the grants, enter the fees, seal the grants, index and place in order to be given out to the solicitors.

Notation Department.

Chief clerk, second class, and two assistants, deal with applications after a grant has issued for orders for notation of domicile, for filing renunciation of executor to whom power has been reserved, alteration or revocation of grants and for impounding grants, certificates of sufficiency of security when an estate has been sworn to be of an increased value. Preparing the orders or certificates and making the consequent notations on the records.

Audit Department and Inland Revenue Room.

Chief clerk, first class, and six assistants, of whom two are now in the second class, audit all fees taken in the Principal and District Probate Registries and in divorce, and prepare returns for the Home Office. Two of the clerks act as accountants in paying typists after checking the amount of folios copied and paying those receiving a weekly wage, and have a good deal of trouble in consequence of the Insurance Act, which affects clerks in District Registries as well as those paid by weekly wage. Three clerks are employed in supplying the Estates Duty Department with the recently proved wills and bonds in their custody, and such as may be required from the strong room.

Literary Department.

The superintendent, a second class clerk, and three assistants, arrange and look after the ancient records in the strong room, subject to the requirements of the record keeper, who is responsible for their custody, attend on the literary searchers who have permission to make use of the department, and when possible make calendars of ancient records where new calendars are needed or none are in existence.

Record Keeper's Department.

All original wills proved in the Principal Registry, copies of wills proved in the District Registries, records of grants, oaths to lead grants, bonds, &c., are in the record keeper's custody under the control of the Registrars. Copies of wills are supplied to the public on personal application or by correspondence with persons residing outside the London Postal District. In the year 1913 the number of searches for wills was 80,219.

The record keeper is a first class clerk and has 20 assistants, of whom three are in the second class.

Contentious Department.

This department, consisting of a chief clerk in the first class, with six assistants, of whom two are in the second class, deals with all the Probate and Divorce Court and contentious business. All papers in causes and for motions are filed here and summonses issued. Minutes are kept in which the proceedings in Probate and Divorce causes are entered. Appearances are entered here, except to writs of summons. The cause list for each sitting is prepared, involving the investigation of the papers, and, in probate actions, the ensuring the production in Court at the hearing of the script in dispute.

In 1910 the number of petitions in matrimonial causes filed was 930, in 1914 it was 1,369.

Registrars' Clerks.

One of the Registrars' clerks in attendance on the Senior Registrar, and assisting in the duties of control and correspondence with public departments is in the second class. The other four Registrars' clerks are in the third class.

These clerks have to acquire a general knowledge of all the work in the Registry and to assist the Registrar both in Court and at the Registry.

District Registries.

In the District Registries the work consists of dealing with applications for grants when the deceased had a fixed place of abode within the district. In 1913, 34,489 grants were made in the District Probate Registries. The District Registrars have also the custody of ancient wills and documents transferred from the Ecclesiastical Courts.

APPENDIX XCVI.

(*Handed in by Senior Master T. A. Romer.*)

Vide Q. 44,746.

STATEMENT as to the work of the CHANCERY CHAMBERS.

I.—THE WORK OF THE MASTERS IS AS FOLLOWS:—

The Masters of the Supreme Court, Chancery Division, sometimes called Chancery Masters, are the successors of the Chief Clerks to the Chancery Judges appointed under the Act 15 & 16 Vict. c. 80 and hold office during good behaviour. By an Order of the Lord Chancellor dated 10th February 1897, made with the concurrence of the Lord Chief Justice and the consent of the Treasury, "the Chief Clerks in the "Chambers of the Chancery Division shall have the "style and title of Masters of the Supreme Court;" but the change is one of title only and the Masters perform the same duties and bear the same relation to

their respective Judges as their predecessors the Chief Clerks. Every Order made by a Chancery Master is the Order of the Judge.

As defined by Order 55, Rule 15 (Rules of the Supreme Court, 1883) the duties of the Chancery Masters are to hear and investigate such matters as the Judges shall, subject to the Rules, direct. As a fact, all applications in the Chambers of a Chancery Judge come before the Master in the first instance. He deals with, and disposes of, all the cases that come before him except those which by the Rules or by the special direction of the Judge can only be disposed of by the Judge in person, and these he adjourns to the

Judge. When the Master has disposed of a case, it is open to any party who is dissatisfied with his decision to take the Judge's opinion; and, further, the Master in his discretion can adjourn to the Judge any case which he thinks ought to be so dealt with. These three classes of cases are adjourned to the Judge who sits on Monday to hear them, the Master also being present. The Chancery Master is in fact a judicial officer exercising all the powers of the Judge in Chambers except those which, as stated above, he is precluded from exercising. In eight classes of cases a Master is precluded from making an Order by the Rules of Court; in about nine classes he is precluded by special direction of the Judge but this number varies slightly in the different Chambers. In every case adjourned to the Judge, including those which the Master has no jurisdiction to dispose of, he reads the papers, prepares a note of the facts and directs the Judge's attention to any points that seem to be material. It is estimated that at least half an hour is required for the preparation of a note for the Judge. Besides his duties as the mouthpiece of the Judge the Master makes certificates stating the result of accounts and inquiries taken by him under orders of the Court or a Judge.

The cases that come before a Master are entered in a daily list and he sits until they are all disposed of. The shorter cases are taken as a rule between 11 and 1.30. From 2 to 4, or later if necessary, the Master takes cases lasting from one to two hours. These hours do not represent the whole of the work. There are clerks to be seen and documents to be signed, verbal inquiries to be answered, papers to be read and, occasionally, private interviews with solicitors and parties. In the course of a week the Master disposes of from 50 to 60 cases on an average. More than nine-tenths of all the applications that come before the Master are disposed of by him without reference to the Judge.

Amongst the orders that are made by the Master, without referring the cases to the Judge unless at the request of a dissatisfied party, are the following:—

- (a) Orders that a pleading be struck out or for leave to amend a Writ or pleading, for leave to deliver Interrogatories, to compel the delivery of particulars, upon applications to consider the sufficiency of an affidavit of documents, for attachment of debts, charging orders (*nisi* and absolute), interpleader.
- (b) Orders for foreclosure *nisi* and orders under Order 15 for accounts in partnership actions and other actions in which accounts and enquiries not relating to the estate of a deceased person are claimed. (An Order under this head is, in effect, the judgment in the action.)
- (c) Orders for payment out of Court of funds, without restriction as to amount, where there has been an Order declaring the rights or where the title depends upon proofs of the identity or the birth, marriage, or death of any person; and Orders free from these conditions where the fund does not exceed 1,000*l.* A case where the fund does not exceed 1,000*l.* may obviously be as difficult and complicated as one where the fund is larger, and the case must therefore be dealt with by the Judge in Court on a petition.
- (d) Orders for the payment of the income of any Fund in Court, without restriction as to amount.
- (e) Orders dealing with funds paid into Court under the Parliamentary Deposits Act, without restriction as to amount.
- (f) Orders dealing with funds paid into Court under the Lands Clauses Act, without restriction as to amount, except payment out to persons absolutely entitled, in which case the limit is 1,000*l.*
- (g) Orders appointing guardians and for the maintenance and education of infants, and orders approving a settlement on the marriage of an infant.
- (h) Orders relating to the management of property of deceased persons, debenture holders, or infants, or in any case where a receiver has been appointed.
- (i) Orders for taxation of costs and charging orders under the Solicitors Acts.
- (j) Orders on further consideration for the distribution of an insolvent estate or of a fund amongst debenture holders, and in some other cases where the further consideration of an action is reserved to be heard in Chambers.
- (k) Orders in certain cases under statutory jurisdiction, such as the Settled Land Acts, the Trustee Act, Lunacy Acts, the Railway Companies Act, 1867, the Tramways Act, 1870, and the Judicial Trustees Act, 1896, Conveyancing Act, Guardianship of Infants Act, Married Women's Property Acts, Assurance Act, 1896, Courts (Emergency Powers) Act, 1914, Trading with the Enemy Amendment Act, Poor Persons Rules, the Parliamentary Deposits Act, and the Lands Clauses Act.

A considerable portion of the Chancery Master's time is occupied, with the assistance of his staff, in answering accounts and inquiries, which includes the decision of questions of principle, the investigation of the title to land in partition actions and on investment (by purchase or mortgage) of trust funds and under the Lands Clauses Acts, the verification of pedigrees, the adjudication of creditors' claims and of next-of-kin in respect of the estate of a deceased person. As instances I may mention two or three other matters we have to deal with under "Inquiries," viz., inquiries as to damages, inquiries involving presumption of death, and also the settlement of deeds. This work often involves the determination of questions both of law and fact, and the result is stated by the Master in the form of a certificate. The adjudication of a disputed creditor's claim is frequently, in effect, the trial of a common-law action.

II.—THE WORK OF THE STAFF CONSISTS OF THE FOLLOWING:—

A. *That of the First Class Clerks.*

Hearing Summonses to proceed under certain orders.

Hearing Summonses for time.

Hearing Summonses for discovery.

Hearing Summonses for unopposed Stop Orders and discharge of same.

Drawing and settling Certificates in accordance with the Master's notes in answer to accounts and inquiries directed by orders of the Judges in actions for Administration, Debenture Holders' Actions, Partition Actions, Actions for Damages, Reduction of Capital and to ascertain heir-at-law and next-of-kin and other special inquiries. This work is of a responsible nature, requiring care and accuracy, Vouching Receiver's Accounts, Executors' and Administrators' Accounts, Trustees' Accounts, Guardians' Accounts, Mortgagees' Accounts, Checking List of Claims in Administration Actions, preparing memoranda of orders made in Chambers to be drawn up by the Registrars, involving checking the evidence and parties, and settling Pay Office schedules when annexed, and, in certain cases, settling the minutes of such orders, examining all Debentures with the Debenture Register, and examining all transfers of such debentures subject to Judgment, assessing costs, settling Lodgment Schedules for payments into Court of purchase money and Receivers' and Guardians' Balances, checking particulars and conditions of sale, and recitals in deeds and marriage settlements.

B. *Second Class Clerks' Duties.*

Settling Bonds and Recognizances to be given by way of security by Receivers, Guardians, Controllers, Auctioneers, &c., and checking the completed documents before approval by Master.

Preparing and settling Certificates of completion of Security where necessary, and endorsing note of completion on Orders where security under 500l.

Where vacation of security is subject to any conditions, seeing that conditions complied with, and endorsing note for signature by Master.

Drawing up Chamber Orders, such as confirmation of contracts, particulars, discovery, interrogatories, carrying on proceedings, interpleader, Garnishee, and under Courts (Emergency Powers) Act, &c.

Preparing references to Taxing Masters and Conveyancing Counsel.

Settling the advertisements directed by the Master for heirs-at-law, next-of-kin, &c.

Preparing sale papers.

Assisting in Summons Room.

C. Third Class Clerks' Duties.

Issuing summonses and giving appointments before the Masters.

Preparing the daily list for the printer of matters coming before the Masters and Junior Clerks.

Preparing the notes of all matters coming before the Master each day, and subsequently going through such notes, noting orders made, adjournments, &c.

Preparing Certificates of Attendances.

Keeping Summons Book.

Keeping Masters' Notes, indexing papers, &c.

Preparing fiats for amendment of pleadings, &c.

In order to make clearer the above statement I should like to explain in some detail what work is involved in, say, four matters of daily occurrence in Chambers.

For this purpose I have selected—

- (1) Administration actions;
- (2) Debenture Holders' actions;
- (3) Foreclosure Proceedings; and
- (4) Pedigree cases.

Creditors' Actions for the Administration of the Estate of a Deceased.

These cases are generally commenced by originating summons, which comes before the Master, who examines the evidence, and, when all is in order, adjourns to the Judge.

In due course the Judge makes an Order that the Executor's Accounts are to be taken in Chambers, and directing inquiries as to the amount due to the Creditors and the property of which the deceased died possessed.

The accounts are brought into Chambers and submitted to the Master, who, in due course, refers them to one of his Principal Clerks for examination and vouching in the presence of the parties. Any disputed or difficult questions are referred back to the Master for determination and in the end the total of the receipts and payments are ascertained and the balance struck.

Then the claims have to be dealt with. The Master gives directions that the ordinary advertisement is to be inserted in certain named newspapers. A list of all persons claiming to rank as creditors is subsequently brought into Chambers and each claim is separately dealt with sometimes involving a long investigation.

Then the assets have to be realised on occasions, Real Estate has to be sold, and all the details appertaining to Sales by the Court have to be supervised in Chambers.

The Certificate in due course is prepared which reports to the Judge the result of the Account, Investigations, Sales and Inquiries which he directed.

Finally, if the Estate is insolvent, or is that of an Intestate, the Master makes the Order for distribution

of the money amongst the Creditors and parties entitled. In a word the whole of the working out of the Judge's Order is done in Chambers by the Master and his staff.

Debenture Holders' Actions.

These are very common indeed. The usual routine is that an Order is obtained from the Court appointing a Receiver of the property charged with or without a Manager of the Company's business. This Order is brought into Chambers where the amount of security to be given by the Receiver is fixed. Shortly afterwards, the Court directs an inquiry as to who are the Debenture Holders, what is due to each, and what property has been charged.

All these matters are investigated in Chambers where the Debentures are produced and examined by one of the Principal Clerks—the Debentures not infrequently run into hundreds. In the case of Bearer securities, advertisements are issued to ascertain the holders.

After these inquiries have been answered in a Certificate, the assets have to be realised, and finally an Order is made for the distribution of the money amongst the Debenture Holders.

Generally, the Court does not hear of these actions after the judgment for accounts, the whole of the investigation, sales, and distribution being carried out in Chambers subject, however, to the right of any party to refer any question which arises in the course of the proceedings to the Judge for decision.

Foreclosure Proceedings.

These proceedings are commenced, carried on, and concluded in Chambers subject to the right of any party to take the Judge's personal directions upon any question that arises.

The proceedings are commenced by Originating Summons which comes before the Master, and when supported by proper evidence he makes the Order directing an account to be taken of what is due under the Mortgage.

The account is brought into Chambers and referred to one of the Principal Clerks to examine in the presence of the parties.

Then a Certificate is prepared which gives the amount due, and names a place where and a day when the Mortgagor is to attend and pay. The money is seldom paid, and upon proof that default has been made in payment on the day named the Mortgagee is entitled to an Order absolutely foreclosing any right which up to that time the Mortgagor had to redeem his security.

Pedigree Cases.

It often happens that one of the next-of-kin of a deceased went abroad and cannot be found, which places Trustees and Executors having money to distribute in a difficult position. In such cases, upon proper application being made, the Court directs an inquiry for the purpose of ascertaining who are the next-of-kin of the deceased.

In such cases the Order is brought into Chambers, where the investigation takes place. Advertisements are issued for the missing individual, and the evidence of all persons who come in and make claims is examined. The Pedigree is brought into Chambers and proved before the Master by production of Certificates verified by Affidavits.

In due course the next-of-kin are ascertained and the result is certified. This work is often very heavy, involving the examination of a large number of Certificates and other evidence.

APPENDIX XCVII.

(Handed in by Mr. Stanley Leathes, C.B.)

Q. 48,847.

PARTICULARS AS TO CANDIDATES NOMINATED TO CLERKSHIPS IN THE SUPREME COURT OF JUDICATURE AND LAND REGISTRY.

Note.—It has not been possible in many cases to obtain particulars of a candidate's University career, and the fact that no mention of a degree is made in many cases of University candidates is not intended to imply that no degree was obtained.

Only nominations which resulted in the issue of a certificate of qualification for appointment are shown.

(1) SECOND CLASS CLERKS, SUPREME COURT OF JUDICATURE, since 1900.

(All exempted from examination under Clause VII. of the Order in Council.)

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 31,553	32	Solicitor	Not stated	1902. —	—	Solicitor	10 years, solicitor.	Temporary clerk in Taxing Office.
Z. 35,362	25	Metropolitan police magistrate.	Shrewsbury, 18	1904. —	—	Solicitor	11 years, solicitor.	Solicitor.
Z. 38,308	26	Civil servant (India Office).	Not stated	1906. Oxford, B.A.	—	Solicitor	Managing clerk to solicitor.	Solicitor's managing clerk.
Z. 51,355	25	Civil servant (Supreme Court).	Mercers' School	1913. —	—	Solicitor	5 years' articles	Temporary clerk in Crown Office.

(2) SECOND CLASS CLERKS, LAND REGISTRY, since 1900.

(All exempted from examination under Clause VII. of the Order in Council.)

Z. 28,133	37	Clerk in Holy Orders.	Winchester, 18½	Cambridge, B.A.	Barrister	—	(12 years) Equity draughtsman and conveyancer.	Barrister.
Z. 28,134	35	Official Assignee in Bankruptcy.	Marlborough, 17	Oxford, B.A.	Barrister	—	Equity draughtsman and Conveyancer.	Barrister.
Z. 28,311	30	County Court Registrar.	Repton, 17	Oxford, B.A.	Barrister	—	Barrister	Barrister.
Z. 28,621	34	Barrister	Winchester, 18	Oxford, —	Barrister	—	(9 years) barrister.	Barrister.
Z. 29,658	40	Wharfinger	Not stated, 17	Oxford, M.A.	Barrister	—	(14 years) barrister and legal author.	Barrister.
Z. 29,657	33	Clerk in Holy Orders.	Rugby, 19	Nomination in 1901. Oxford, B.A.	Barrister	—	Barrister	Barrister.
Z. 32,462	43	J.P.	Harrow, 18	Nominations in 1902. Cambridge, LL.B.	Barrister	—	(20 years) barrister.	Barrister.
Z. 32,463	27	Barrister	Cheltenham, 18	—	Barrister	—	(6 years) barrister.	Barrister.
*Z. 35,493	31	Clerk in Holy Orders.	Radley, 19	Nomination in 1904. Oxford, —	Barrister	—	(4 years) barrister.	Barrister.
Z. 40,664	36	Wool merchant.	Rugby, 18	Nomination in 1907. Oxford, B.A.	Barrister	Solicitor	8 years, solicitor; 1 year, barrister.	Temporary clerk in Land Registry.
Z. 42,386 (Promotion).	38	Principal clerk, Supreme Court.	Private, 16	Nomination in 1909. —	—	—	Clerk to Official Receiver in Bankruptcy.	Third class clerk, Land Registry.
Z. 44,337	38	Clerk in Holy Orders.	Trinity College, Stratford, 19	Nomination in 1910. —	—	Solicitor	18 years clerk, managing clerk, own practice.	Temporary clerk in Land Registry.
Z. 47,747 (Promotion on transfer.)	38	Civil engineer.	Private, 17	Nomination in 1912. —	—	—	—	Third class clerk in Supreme Court

* Partial exemption only was allowed.

(3) THIRD CLASS CLERKS, SUPREME COURT OF JUDICATURE, from 1899-1913.

Note.—Nominations to Third Class Clerkships in the Land Registry, the Probate Registry, and the Admiralty Registry are included.

The Land Registry cases are distinguished by an asterisk.

Cases in which candidates have been exempted from examination under the provisions of Clause VII. of the Order in Council of 10th January 1910 are distinguished by the printing of the candidate's file number in *italics*. Cases in which the ordinary rules as to age have been dispensed with under the same Clause are similarly distinguished.

Nominations in 1899.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
*Z. 26,533	31	Civil engineer	Rugby, 19	Melbourne and Oxford, B.A.	—	Yes	3 years as articled clerk, and 6 years as managing clerk to various solicitors' firms.	Managing clerk to solicitor.
Z. 26,639	21	Managing clerk to firm of solicitors.	Dame Alice Owen's Grammar School, 15.	—	—	—	6 months as solicitor's clerk at age of 17. Had also read law with a firm of solicitors for (probably) about a year.	Clerk to life assurance company.
Z. 27,340	26	Clerk in Land Registry.	Private schools, 15.	—	—	—	About a year in Land Registry.	Clerk in Land Registry.
Z. 26,536	24	"Esquire"	Charterhouse, 18	—	—	Probably	5 years as articled clerk, 1 year as managing clerk to solicitor.	Managing clerk to solicitor.
Z. 26,604	22	Private hotel keeper.	Holborn Estate Grammar School, King's College (Strand School), 17.	—	—	—	—	Bank clerk.
Z. 26,885	26	"Esquire"	Private schools, 17.	—	—	—	—	Bank clerk.
Z. 26,636	25	District probate registrar.	St. Peter's, York, and private tuition, 16.	—	—	—	—	Clerical and literary work. Had held no situation.
Z. 26,945	24	Admiral	Winchester, 17	Cambridge, B.A.	—	—	—	Travelling on the Continent.
Z. 26,900	20	Surgeon	Marlborough, 17½.	—	—	—	—	Had held no situation.
Z. 27,000	20	Clergyman	Bath College, 17	—	—	—	—	Clerk to shipping and insurance agency.
Z. 27,040	21	Lecturer and author.	St. Paul's, 19	Oxford (two terms).	—	—	—	Helping his father and acting as private tutor.
Z. 27,111	21	Clergyman	Private schools. Remained at school till 21, taking private tuition for London Matric., which he passed.	—	—	—	—	Had held no situation.
Z. 27,353	21	Methodist minister.	National Schools in Ireland, 15.	—	—	—	—	Studying for C.S. Examinations. Formerly an assistant to firm of druggists and grocers.
Z. 27,376	27	M.P.	Eton, 17½.	—	—	—	—	At home and private tuition.
Z. 27,713	28	District probate registrar.	Cholomely Grammar School, 16½.	—	—	—	4 years experience as clerk at District Probate Registry in two different periods.	This candidate had been in District Probate Registry, then an officer in the Militia, then a private in the Regular Army, then ranching in U.S.A., and was again in District Probate Registry at time of nomination.
Z. 27,904	20	Army officer	Private Schools, 18.	—	—	—	—	Attending Civil Service classes.
Z. 27,354	26	Schoolmaster	S. Creak School, 14.	—	—	—	—	Telegraphist in G.P.O.
Z. 27,997	28	Licensed victualler.	Archbishop Tenison's School, 15½.	—	—	—	9 years as solicitor's clerk.	Solicitor's clerk.
Z. 26,600	21	Tobacco manufacturer.	Private and elementary schools, 16.	—	—	—	6 months as solicitor's clerk.	Solicitor's clerk.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 26,622	23	Clergyman	Kelly College, Tavistock (left at 15, then a year with private tutor).	—	—	—	—	Actor.
Z. 27,871	57	Builder	Private and elementary schools, 15.	—	—	—	1 year as clerk to Mr. Justice Lush ; 15 years as 2nd clerk to Master of the Rolls.	2nd clerk to Master of the Rolls.
Z. 26,652	28	Auctioneer	Portsmouth Grammar School.	—	—	Yes	5 years as articulated clerk to solicitor's firm, and about 3 years as clerk to various firms.	Barrister's clerk
Z. 26,539	20	Artist	Whitgift Middle School, 15.	—	—	—	About 5 years as copyist and book shower in Royal Courts of Justice.	Employed in Royal Courts of Justice.
Z. 26,957	23	Admiral	Eton, 19	Oxford	—	—	—	Had held no situation.
Z. 26,976	22	Salesman	Private schools, 17.	—	—	—	A few months as temporary clerk in Supreme Court.	Temporary clerk in Supreme Court, formerly a sorter in P.O. Bank clerk.
Z. 27,203	21	Not shown	Christ's Hospital and King's College (London).	—	—	—	—	—
Z. 27,654	21	Doctor	Charterhouse, 15.	—	—	—	—	Improver to brewery company.
Z. 27,654	20	Master of Supreme Court.	Harrow, 19	—	—	—	—	Schoolmaster.
Z. 27,848	22	Bank clerk (cashier).	Magdalen College School, 17½.	Oxford (2nd class Honours in School of Jurisprudence).	—	—	No experience shown (<i>see</i> degree).	Had held no situation.
Z. 27,872	24	Clergyman	Haileybury and Wimborne, 19.	—	—	—	—	No situation at time of nomination. Had been a bank clerk.
Nominations in 1900.								
*Z. 28,135	28	Licensed victualler.	National school and Clark's College, 16.	—	—	—	Over 12 years as "general clerk" in solicitors' offices.	General clerk in a solicitor's office.
Z. 28,794	29	Principal clerk, Royal Courts of Justice (Chancery Taxing Office).	Stoke Newington Collegiate School, 15.	—	—	—	About 9 years in solicitors' offices as general clerk and assistant Chancery clerk.	Assistant Chancery clerk in a solicitor's office.
*Z. 28,915	22	Bishop.	Winchester, 18.	Oxford	—	—	A few months in Land Registry Office.	Living at home until a few months before nomination, when he entered the Land Registry Office.
*Z. 29,217	28	Retired grocer	Elementary schools, 14.	—	—	—	14 years in a solicitor's office as shorthand and conveyancing clerk.	Solicitor's office, shorthand and conveyancing clerk.
*Z. 29,238	27	Schoolmaster (Board schools).	Elementary schools (under his father), 18.	—	—	—	9 years with solicitor and County Court Registrars as general clerk, clerk in charge and cashier.	Cashier in the office of the County Court Registrar, Wandsworth.
*Z. 29,245	20	Solicitor and land agent.	Bath College, 19.	—	—	—	—	Studying under a private tutor.
Z. 28,331	25	Colonel (retired).	Private schools, 18.	—	—	—	—	Private study.
Z. 28,332	22	Advertising agent.	Private schools, 15.	—	—	—	About four months in Land Registry and Royal Courts of Justice.	Employed in Royal Courts of Justice.
Z. 28,361	20	Railway superintendent.	Guildford Grammar School and Skerry's College, 17½.	—	—	—	Two years in a solicitor's office (training).	Solicitor's office.
Z. 28,425	21	Clergyman	Westminster, 16½.	Oxford, B.A.	—	—	—	No situation ; nominated three months after leaving Oxford.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 28,555	21	Clerk to Mr. Justice Kekewich.	Dulwich College, 17.	—	—	—	Over three years in solicitor's office, first as junior clerk and then as general clerk.	Clerk in chartered accountants' office.
Z. 28,576	24	Engineer	Rich's Grammar School, 14.	—	—	—	10 years as clerk in solicitors' offices, and 7 months in Land Registry as writer.	Writer in Land Registry.
Z. 28,911	22	Bootmaker	National school 13½.	—	—	—	8½ years as clerk in a solicitor's office.	Clerk in a solicitor's office.
Z. 29,496	21	Provision agent.	Private schools, 17.	—	—	—	Under 6 months in Supreme Court.	Clerk in Supreme Court. Formerly with firm of engineers. Had held no situation.
Z. 28,383	21	Army	Private schools in England and public school in Germany for 18 months, 18.	—	—	—	—	
Z. 28,493	25	Barrister	Queen's Service Academy, 17.	—	—	—	—	Tutor and private study. Had held no situation.
Z. 28,675	22	None	Allhallows School, Honiton, 19.	—	—	—	—	
Z. 28,736	21	Solicitor	St. Paul's, 18	—	—	—	—	Clerk in insurance company.
Z. 29,155	23	Army	Winchester, and private tuition in Paris, 16.	Cambridge, B.A.	—	—	—	"Work and country pursuits."
Z. 29,156	20	Clergyman	Merchant Taylors, 18.	—	—	—	—	Employed by Steam Navigation Company. Studying.
Z. 29,161	26	Clergyman	Private schools, 18.	—	—	—	6 months with a solicitor.	
Z. 29,643	23	Judge in India	Shrewsbury, 18	Oxford (3 years and a term).	—	—	—	Nil. Had just failed for I.C.S.
*Z. 29,644	23	Army (in the ranks).	Elementary schools, 13½.	—	—	—	1 month as barrister's clerk.	Clerk to entertainment agent.
Z. 28,230	20	Conveyancing clerk.	Hornsey Grammar School, 15.	—	—	—	1 year in solicitor's office (at age of 15).	Clerk to land company.
Z. 28,833	20	Clerk in Supreme Court.	H.M.S. "Britannia," Dartmouth.	—	—	—	—	Clerk to underwriter.
Nominations in 1901.								
*Z. 29,929	23	Judge's clerk.	United Westminster School, 17.	—	—	—	Clerk in Land Registry for 18 months before nomination.	Clerk in Land Registry.
Z. 30,462	40	Copying clerk in Royal Courts of Justice.	Elementary and private schools, 16.	—	—	—	Copyist and examiner in Scrivenery Department of Royal Courts of Justice for nearly 20 years before nomination.	Employed Royal Courts of Justice.
Z. 30,313	23	Accountant	Private school, 16.	—	—	—	4½ years as solicitor's clerk.	Solicitor's clerk.
Z. 31,182	28	Clerk in Supreme Court.	(Not shown), 16	—	—	—	Over 10 years as solicitor's clerk.	Solicitor's clerk.
Z. 30,217	21	Clerk in Supreme Court.	Dulwich, 16	—	—	—	—	Clerk to firm of shippers.
Z. 30,187	22	Clergyman	Eton, 17	Oxford (2nd Cl Hons. in Modern History).	—	—	—	Had held no situation.
Z. 30,196	26	Solicitor	(Not shown), 16	—	—	Yes	5 years as articled clerk ; 5 years as solicitor's clerk (admitted) ; about 1 year practising as solicitor.	Practising solicitor.
Z. 30,466	25	"Gentleman"	(Not shown), 19	Oxford (2nd Cl. Classical Mods., 4th Cl. Lit. Hum.)	—	—	—	Schoolmaster.
Z. 30,456	27	Clergyman	Lancing, 18	Oxford, B.A.	—	—	—	Private tutor.
Z. 31,120	25	Doctor	(Not shown), 14	—	—	—	—	Employed by firm of engineers.
Z. 31,067	21	Admiralty marshal (retired).	City of London, 18	Cambridge (3 yrs.).	—	—	—	Just left Cambridge.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Nominations in 1902.								
*Z. 31,588	23	Clerk in Supreme Court.	Elementary and private schools, 15½.	—	—	—	6½ years as solicitor's clerk, starting at 15½ years.	Solicitor's clerk.
Z. 31,554	28	Builder	National school, 12½.	—	—	—	18 months as barrister's clerk at age of 13; about 14 years as solicitor's clerk, starting at age of 14½.	Solicitor's clerk.
Z. 31,654	24	Church keeper.	Kensington British Schools, 14.	—	—	—	5 years as solicitor's clerk.	Solicitor's clerk.
Z. 31,676	24	Solicitor's clerk.	Elementary schools, 14.	—	—	—	About 10 years as clerk to various firms of solicitors.	Solicitor's clerk.
Z. 32,098	25	Civil servant	Clapham High School, 18.	—	—	Yes	5 years as articled clerk, and about 18 months as solicitor's (admitted) clerk.	Solicitor's clerk.
Z. 32,611	23	Chief cashier, Law Society.	Elementary schools, 15½.	—	—	—	Nearly 2 years as solicitor's clerk (boy earning 15s.-20s. a week); later about 6 months as solicitor's clerk and 18 months as temporary clerk in Royal Courts of Justice.	Temporary clerk in Royal Courts of Justice.
Z. 32,686	21	Barrister	Private schools, 15.	—	—	—	—	Commercial clerk.
Z. 31,506	29	Cabinetmaker	Elementary schools, 14.	—	—	—	About 14 years as solicitor's clerk.	Solicitor's clerk.
Z. 31,771	24	Church organist.	New College School, Oxford, 19.	Oxford, B.A.	—	—	About 9 months as clerk in Land Registry.	Clerk in Land Registry.
Z. 32,024	24	Clerk of works.	Elementary schools, 13.	—	—	—	7 years as temporary clerk in Royal Courts of Justice.	Temporary clerk in Royal Courts of Justice.
Z. 32,103	23	Commercial traveller.	Grammar School, Taplow, 19.	—	—	—	—	Clerk to firm of engineers.
Z. 32,499	28	Relieving officer.	Birkbeck College School, 16.	—	—	—	2 years as solicitor's clerk.	Solicitor's clerk.
Z. 31,943	23	Tea-planter	Clifton, 17½	—	—	—	—	Public Works Department of Indian Native State.
Z. 32,626	49	"Gentleman"	Private school Wesleyan Training College, 13.	—	—	—	8 years as solicitor's clerk; 28 years in Probate Registry.	Employed in Probate Registry.
Z. 32,627	50	"Gentleman"	National school, 14.	—	—	—	26 years in Probate Registry.	Copying clerk in Probate Registry.
Z. 32,629	25	Director of company.	Haileybury, 19	—	—	—	—	Working under his father.
Z. 32,697	21	Barrister and M.P.	Harrow, 16	—	—	—	—	Studying.
Z. 32,749	20	Chief constable, Metropolitan Police.	Dulwich, 17¾	—	—	—	—	Militia officer; had served in South African War.
Nominations in 1903.								
Z. 33,422	25	Goldsmith	Elementary schools, 15.	—	—	—	About 9 years as solicitor's clerk, starting at age of 15, and 1 year in Supreme Court.	Employed in Supreme Court.
*Z. 34,855	22	Coachman (ex Army).	Elementary schools, 13.	—	—	—	3 years as temporary clerk in Land Registry.	Temporary clerk in Land Registry.
Z. 33,464	27	"Gentleman"	Dean Close School, Cheltenham, 18.	—	—	Yes	5 years as articled clerk; 4½ years as solicitor's (admitted) clerk.	Solicitor's clerk.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 33,790	24	Barrister and registrar in Principal Probate Registry.	Private schools	Oxford, B.A. Hons.	?	—	—	Had spent one year since Oxford in reading for solicitor's intermediate and barrister examinations and in travel. Clerk to official solicitor.
Z. 33,796	27	Salesman	Elementary schools, 12½.	—	—	—	About 15 years as clerk to official solicitor (starting at 13). About 14½ years service as clerk to various firms of solicitors.	Solicitor's clerk.
Z. 34,666	29	Law stationer	Wesleyan Methodist School, Chislehurst, 14.	—	—	—	5 years as articulated clerk ; not clear whether he has practised.	Solicitor.
Z. 34,550	23	Clergyman	Winchester, 18.	—	—	Yes	8 years as solicitor's clerk, starting at age of 14.	Solicitor's clerk.
Z. 53,975	22	Builder	Private and elementary school, 14.	—	—	—	About 11 years as judge's clerk.	Judge's clerk.
Z. 32,849	23	Builder	Elementary schools, 13.	—	—	—	About 14 years as clerk to various firms of solicitors, starting at age of 14.	Solicitor's clerk.
Z. 34,102	28	Book-keeper and cashier.	Elementary school, 13.	—	—	—	8 years as barrister's clerk, 1 year as judge's clerk.	Private study.
Z. 34,590	22	Resident Magistrate in Ireland.	St. Columba's College, Dublin, 17.	—	—	—	—	Clerk to publisher and picture dealer.
Z. 34,626	33	Housekeeper	Elementary schools, 14.	—	—	—	—	Judge's clerk.
Z. 32,863	20	Librarian at the Foreign Office.	Harrow and private tuition in London and abroad ; left Harrow at 17.	—	—	—	—	Private study.
Z. 33,536	20	Clerk, Principal Probate Registry.	Strand School and King's College ; left at 18 ; did not matriculate in London University.	—	—	—	—	Private study.
Z. 33,540	20	Brewer	Private school, 16.	—	—	—	—	Bank clerk.
Z. 34,388	20	Staff Paymaster, R.N.	St. Ann's School, Redhill, 15½.	—	—	—	—	Clerk to insurance broker
Z. 34,394	24	None	Victoria College, Jersey, 18.	—	—	—	—	Bank clerk.
Z. 34,485	21	Clerk, Probate Registry.	Highgate School, 20.	—	—	—	—	Travel and private study.
Z. 33,669	20	Civil servant	St. Paul's, 17.	—	—	—	—	Clerk to firm of stockbrokers.
Z. 33,861	20	Civil servant	Highgate School, 17.	—	—	—	—	Private study.
Z. 34,245	22	Hop merchant	King William's College, Isle of Man, 16.	—	—	—	—	Clerk in insurance company.
				Nominations in 1904.				
Z. 34,677	29	Club steward	(Not shown), 11	—	—	—	15 years as clerk to various barristers.	Barrister's clerk.
Z. 34,855	23	Army and coachman.	St. Faith's National School, Maidstone, 12½.	—	—	—	3½ years as writer and third class clerk in Land Registry.	Third class clerk, Land Registry (ex-footman).
Z. 35,423	20	Clerk, Courts of Justice.	King's College School, 19.	London, King's College, 1 year.	—	—	—	Private study.
Z. 35,466	22	Sheep manager	Durness Public School, 17.	—	—	—	—	Studying and assisting on farm.
Z. 35,877	25	Railway employee.	St. Thomas, Charterhouse, Goswell Road, 13.	—	—	—	10 years' service with firm of solicitors.	Solicitor's clerk
Z. 34,785	27	Druggist	Moreland Street School, 14.	—	—	—	7 years as clerk to various barristers, and 7 years as clerk to Mr. Justice Walton	Barrister's clerk.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 35,930	20	Clergyman	Fettes College, 18½.	—	—	—	—	Passed for Sandhurst, did not enter; failed for Indian Police then waited for nomination.
Z. 36,010	24	Clergyman	Westminster School, 18.	Oxford, B.A. (subjects not shown) and London, King's College.	—	—	—	Since Oxford, classes at King's College, and took temporary clerkship, Supreme Court shortly before nomination. Assisting his father.
Z. 35,762	26	Merchant assessor, Admiralty Registry.	Westminster School, 18½.	—	—	—	—	Assisting his father.
Z. 34,718	23	Director-General, Medical Department, R.N.	Merchant Taylors School, 18½.	Oxford, B.A. Subjects not shown.	—	—	—	Nil since Oxford.
Z. 34,720	22	Army officer (retired).	St. Patrick's, Newbridge, 17.	—	—	—	—	Ex-boy copyist. Apparently in no situation, and studying for 3 years before nomination. Commercial clerk.
Z. 34,723	26	Army officer	Bedford Grammar School, 18.	—	—	—	—	Commercial clerk.
*Z. 35,040	29	Solicitor	Rugby School, 18½.	Oxford, M.A. Subjects not shown.	Not stated; he had read in barrister's chambers.	—	Had read in barrister's chambers (time not stated).	Temporary clerk, Land Registry.
*Z. 35,002	25	Indian Civil servant.	Harrow School, 18½.	Oxford (4th Class Final Honours, School of Jurisprudence).	—	—	Read for the Bar after leaving Oxford (about 8 months).	Temporary clerk Land Registry.
Z. 34,877	20	Doctor	Tonbridge School, 18.	—	—	—	—	Studied for London Matriculation since leaving school; had just passed it.
*Z. 35,331	25	Civil servant	Sedbergh School, 18.	—	—	—	4 years in Land Registry.	Temporary clerk, Land Registry.
Z. 35,447	60	Clergyman	Cheltenham College, 17.	—	—	—	Over 30 years in Probate Registry.	Employed in Probate Registry.
Z. 35,448	51	"Gentleman"	Continental schools (Belgium and Italy), 17.	—	—	—	28 years in Probate Registry.	Employed in Probate Registry.
*Z. 35,525	26	Clergyman and school-master.	Eton College, 17½.	—	—	—	7½ years as articled clerk and junior clerk (paid) to a solicitor; does not say whether he qualified.	Travelling abroad for 1 year before nomination.
Z. 35,513	21	Barrister, chief clerk, Supreme Court.	St. Peter's College, Westminster, 18½.	Oxford (six terms) Honour Mods. (Classical).	—	—	—	Schoolmaster
*Z. 35,526	23	Not shown	Harper Trust Boys' School, Bedford, 15½.	—	—	—	3 years as solicitor's clerk; 5 years as assistant clerk in Land Registry.	Assistant clerk, Land Registry.
Z. 35,853	26	Clergyman	Radley College, 19.	Oxford (1 year)	—	—	Bar student; no practical legal experience.	Bar student
Z. 35,430	26	Civil servant	Elementary school, 14.	—	—	—	12 years as clerk to various firms of solicitors.	Solicitor's clerk.
*Z. 35,952	27	Solicitor	Radley College, 19.	Cambridge (5 years). Degree not stated.	—	—	Bar student and six months in Land Registry.	Temporary clerk, Land Registry.
					Nominations in 1905.			
Z. 36,286	25	Controller of Stationery Office.	Eton College (two terms, then private tuition).	Cambridge, B.A.	—	—	—	Travelling.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 37,411	20	Barrister (Q.C.) and Recorder of Reading.	Christ's Hospital, 15 $\frac{1}{2}$.	—	—	—	3 years as clerk to various solicitors.	Took temporary clerkship in Supreme Court just before nomination.
Z. 37,237	20	Barrister	Fettes College, 18.	—	—	—	18 months as solicitor's clerk.	Solicitor's clerk
Z. 37,266	22	Secretary at Trinity House	Westminster School, 18 $\frac{1}{2}$.	Cambridge, (B.A. History Trip., Part I., Class III.).	—	—	—	Not stated; had spent some time in Germany in the year since leaving Cambridge.
Z. 36,314	22	Assistant King's Prosecutor, Treasury.	Battersea Grammar School and Private school, 18.	—	—	—	About 2 years (not continuous) as solicitor's clerk.	Preparing for examination for third class clerkship.
Z. 36,864	50	Wine and spirit merchant.	Private schools, 14.	—	—	—	32 years in Probate Registry as copying clerk.	Copying clerk, Probate Registry.
Z. 37,246	20	County court judge.	Stonyhurst College, 17.	—	—	—	"Studying law" with a solicitor.	? Articled clerk.
Z. 37,265	45	Messenger, Probate Registry.	Elementary and private schools, 14.	—	—	—	26 years as copying clerk and examiner in Probate Registry.	Examiner, Probate Registry.
Z. 37,313	28	Civil servant (Assistant Collector of Customs).	Not shown	Oxford (Hons. Mod. History).	—	—	—	Assistant master in private school.
Z. 37,397	26	Bishop of Croydon.	Marlborough College, 18.	Oxford, B.A.	Yes	—	Called to the Bar 2 $\frac{1}{2}$ years before nomination; had apparently read in chambers for six months, and spent 2 years devilling, &c.	Barrister.
Z. 37,269	27	I.C.S.	Private school and private tutors.	—	Yes	—	Called to the Bar; had read in chambers for six months, and since spent nearly 2 years assisting a barrister in his ordinary work and in the compilation of a legal treatise.	Barrister.
Nominations in 1906.								
Z. 37,754	21	Officer (Indian Army).	St. Paul's School and private tutors, 15 $\frac{1}{2}$.	—	—	—	—	Private study; had qualified at Army Entrance examination.
Z. 38,273	24	Wine merchant	Hurstpierpoint College, 18 $\frac{6}{12}$.	—	—	—	—	Assistant master in private school.
Z. 38,229	24	Law stationer	Elementary schools, 14.	—	—	—	Two years with firm of solicitors; (age 14 16 at time).	Assistant clerk in Civil Service.
Z. 37,706	21	Barrister	Blundell's School, Tiverton, 18.	—	—	—	—	Studying; had acted as assistant master at private school and as private tutor.
Z. 38,401	44	Civil servant	North-west London Collegiate School and private school, 13.	—	—	—	1 year as writing clerk in Probate Division and 19 years as copying clerk in Supreme Court.	Copying clerk in Supreme Court.
Z. 38,558	21	Company director.	St. Paul's School, 17 $\frac{3}{12}$.	—	—	—	—	Special reserve officer (intended to enter Army).
Nominations in 1907.								
Z. 39,766	29	Bank manager	Private schools, 18.	—	—	—	—	Commercial clerk.
Z. 40,528	23	Manager (in drapery trade).	Private and elementary schools, 14 $\frac{4}{12}$.	—	—	—	Clerk to official solicitor to Supreme Court for 9 years.	Solicitor's clerk.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 38,796	24	Civil engineer	Dulwich College, 18 $\frac{1}{2}$.	—	—	—	—	Assisting his father.
Z. 40,496	23	Clerk in High Court.	Owen's School, Islington, 16 $\frac{1}{2}$.	—	—	—	—	Clerk in insurance company.
Z. 39,722	38	Assistant record keeper in Probate Registry.	Elementary schools, 16.	—	—	—	20 years as copying clerk. Probate Registry.	Copying clerk, Probate Registry.
Z. 40,611	21	Shipper	Loretto School, 16.	London (University College) for six months ; did not matriculate.	—	—	—	Assistant master at coaching establishment.
Nominations in 1908.								
Z. 42,268	24	—	St. Paul's School, 16.	—	—	—	Over 2 years' service, first as articled clerk and then as salaried clerk to solicitors.	Assistant school-master and secretary to head master
Z. 40,851	28	Solicitor	Westminster School, 18.	Cambridge (B.A.)	—	—	Two years as articled clerk ; had passed final examination ; not clear whether he was admitted.	Articled clerk to solicitor.
Z. 41,153	26	Gold cutter	Elementary schools, 14.	—	—	—	Six years in department of Treasury Solicitor as boy messenger and clerk and 7 years as clerk to firm of solicitors.	Solicitor's clerk.
Z. 41,154	20	Fishmonger and poulterer	Elementary schools, 13 $\frac{3}{4}$.	—	—	—	5 $\frac{1}{2}$ years as clerk to Mr. Justice Pickford.	Judge's clerk.
Z. 41,540	22	Manager of company.	Eton College, 19 $\frac{3}{4}$.	—	—	—	2 months in office of Public Trustee.	Temporary clerkship in office of Public Trustee.
Z. 42,103	22	Inspector for insurance company.	Plymouth and Mannameread College, 14 $\frac{7}{8}$.	—	—	—	7 $\frac{1}{2}$ years as county court clerk.	County court clerk.
Z. 42,242	21	Cellarman	Elementary school, 14.	—	—	—	6 years as barrister's clerk.	Barrister's clerk.
Z. 42,243	20	Registrar in Chancery.	Haileybury College, 19.	—	—	—	1 year as clerk to firm of solicitors.	Solicitor's clerk.
Z. 42,235	20	Clerk in Supreme Court.	Bedford Modern School, 18.	London (University College), 18 months.	—	—	1 year as clerk to firm of solicitors.	Solicitor's clerk.
Z. 41,664	20	Railway employee.	Westminster City School, 15.	—	—	—	Temporary clerk in Supreme Court for about 18 months.	Temporary clerk, Supreme Court.
Z. 40,880	28	Clergyman	(Not shown), 17 $\frac{3}{4}$.	—	—	—	—	In employ of Norwich Corporation Electricity Department ; had worked with a private tutor and tried insurance and poultry farming. Studying.
Z. 41,157	26	Barrister	Eton College, 18	London (University College), Engineering Course, 2 years.	—	—	—	—
Z. 41,211	25	Clerk in Supreme Court.	Dulwich College, 16.	—	—	—	5 years as articled clerk to firm of solicitors.	Studying engineering.
Z. 42,366	23	Author	Westminster School, 18.	—	—	—	—	Clerk to firm of stockbrokers.
Nominations in 1909.								
Z. 43,360	20	County court judge.	Wimbledon College, 17.	—	—	—	Temporary clerk, Supreme Court, for a few months.	Temporary clerk Supreme Court.
Z. 43,615	29	Builder's foreman.	Elementary schools, 13.	—	—	—	7 years as writer in Land Registry.	Writer in Land Registry.
Z. 42,481	27	Barrister	King Edward VI. Grammar School, Louth, 17 $\frac{1}{4}$.	—	—	—	7 $\frac{1}{2}$ years as clerk to firm of solicitors.	Temporary clerk, Supreme Court.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at Time of Nomination.
Z. 43,438	22	Farmer	Elementary schools, 16½.	—	—	—	—	Assistant clerk in Civil Service until just before nomination when he took temporary clerkship in Supreme Court. Clerk in Land Registry.
Z. 43,484	25	Civil servant	County High School, Isleworth, 15 ⁸ / ₁₂ .	—	—	—	1 month with firm of solicitors and 9 years as clerk in Land Registry.	Clerk in Land Registry.
Z. 42,583	24	Army officer	St. Paul's School, 18.	2 years at St. George's Hospital Medical School.	—	—	—	Studying.
Z. 42,684	20	District Probate Registrar.	Charterhouse School, 18 ² / ₁₂ .	—	—	—	2 years in District Registry at Carlisle.	Assisting his father.
Z. 42,843	43	Builder (employed by Watney's distillery).	Elementary schools, 14.	—	—	—	A good many years as clerk to various solicitors' firms (details not clear) 3½ years as clerk to President of Probate, &c. Division.	Clerk to Right Honourable Sir Gorell Barnes.
Z. 42,984	44	Civil servant	Private school, 16½.	—	—	—	About 18 months as clerk to firm of solicitors and 23 years as copying and writing clerk, Probate Registry.	Writing clerk, Probate Registry.
Z. 43,010	20	Clerk to judge	Elementary and private school, 16½.	—	—	—	18 months with firm of solicitors, (age 16½-18).	Clerk in insurance company.
Z. 43,407	23	Schoolmaster	St. Peter's College Westminster, 18½.	Oxford (4 years)	—	—	—	Employed on a newspaper.
Z. 43,408	20	Civil servant	St. Paul's School 18 ¹¹ / ₁₂ .	—	—	—	—	Clerk in insurance company.
Z. 43,409	20	Journalist	St. Peter's College Westminster, 18 ³ / ₁₂ .	—	—	—	—	Assistant on a newspaper.
Z. 42,872	28	Watchmaker and jeweller.	Elementary school, 15.	—	—	—	4 years as barrister's clerk.	Temporary clerk, Supreme Court.
Z. 42,942	22	Baker.	Elementary schools, 13.	—	—	—	Clerk in office of Public Trustee for over a year.	Temporary clerk, Supreme Court.
Z. 43,085	29	Usher.	Elementary schools, 14½.	—	—	—	15 years in the office of the Official Receiver.	In office of Official Receiver.
Z. 43,155	27	Civil servant.	Castle Hill School, West Ealing, 18.	—	—	—	9 years as boy clerk and writer in Land Registry.	Writer in Land Registry.
Nominations in 1910.								
*Z. 44,290	34	"Royal Navy"	King Edward VI. Grammar School, Southampton, 17.	—	—	—	9 years as solicitor's clerk; 7½ years third class clerk in Land Registry.	Third class clerk in Land Registry.
Z. 44,560	23	House steward	Worcester Cathedral King's School, 16 ⁸ / ₁₂ .	—	—	—	Writer in Land Registry for a few months before nomination.	Writer in Land Registry.
Z. 43,701	23	Chef	Elementary school, 14.	—	—	—	8½ years as barrister's clerk.	Barrister's clerk.
Z. 43,920	24	Schoolmaster	Repton School, 16.	—	—	Yes	About 7 years as articled clerk and solicitor's clerk.	Solicitor's clerk.
Z. 44,092	22	Clerk (municipal).	Elementary school, 16.	Read Law at University College, Nottingham (evening classes).	—	—	6½ years as solicitor's clerk.	Solicitor's clerk.
Z. 44,847	28	Solicitor	University College School, 18.	—	—	—	8½ years as clerk to various firms of solicitors.	Solicitor's clerk.
Z. 43,937	23	Admiralty registrar.	Bedford Grammar School, 17.	—	—	—	—	Clerk in insurance company.
Z. 43,745	41	Foreman farmer.	Elementary school, 14.	—	—	—	Over 15 years in Probate Registry.	Employed in Probate Registry.
Z. 44,780	28	—	Foundling Hospital, 15.	—	—	—	13 years as solicitor's clerk.	Solicitor's clerk.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Nominations in 1911.								
Z. 45,590	28	Clergyman	Rugby School, 17½.	—	—	—	—	Commercial clerk.
Z. 46,040	26	Civil servant	Hillmartin College, Camden Town, 16.	—	—	—	—	Clerk in insurance company.
Z. 45,004	21	Accountant	Westminster School, 17.	—	—	—	—	Commercial clerk.
Z. 45,735	26	Official stationer.	Westbourne (Independent) School, 14.	—	—	—	1 year as clerk to firm of solicitors and 3½ years' employment in the Scrivenery Department of Royal Courts of Justice.	Scrivenery Department, Royal Courts of Justice.
Z. 46,123	22	Auctioneer	Manchester Grammar School, 18.	—	—	—	Nearly 3 years as articled clerk to solicitor.	Clerk to his father (auctioneer).
Z. 45,180	26	Barrister	Eton College, 17½.	Oxford, B.A., (Honours in Jurisprudence).	Yes	—	Practising barrister for 3 years.	Barrister.
Z. 45,439	27	Wine merchant.	Westminster School, 18.	—	—	Yes	Articled to a firm of solicitors for 5 years and employed by them for 3 years after admission.	Solicitor's clerk.
Z. 45,449	23	Army officer	Bishop's Stortford School, 18½.	—	—	—	—	Second Division clerk in Civil Service.
Z. 45,790	22	Civil servant	St. Paul's School, 17½.	—	—	—	—	Assistant master in private school.
Z. 45,907	20	Mining engineer.	Marlborough College, 18.	—	—	—	—	Had held several secretarial and clerical posts ; left the last one shortly before nomination and went to study at Skerry's College.
Z. 45,908	23	Hotel keeper	County School, Llandyssil, 18.	—	—	—	—	Secretary to Portcullis Pursuivant of Arms.
Nominations in 1912.								
Z. 48,171	22	Assistant superintendent, Royal Courts of Justice.	Elementary, 15	—	—	—	7 years as clerk to various solicitors.	Solicitor's clerk.
Z. 48,305	26	Dairyman and greengrocer.	Lady Boswell's School, Sevenoaks, 13.	—	—	—	13 years as clerk to various solicitors, starting at the age of 13.	Solicitor's clerk.
Z. 48,528	22	Not shown	Radley College, 17½.	—	—	—	About 3½ years as solicitor's clerk (unpaid).	Solicitor's clerk.
Z. 48,530	23	Engineer	Elementary, 14½	—	—	—	—	Clerk under L.C.C.
Z. 46,969	24	Solicitor's clerk.	Elementary, 14½	—	—	—	About 5½ years (not continuous) as clerk to various solicitors.	Solicitor's clerk.
Z. 48,531	55	Cabinetmaker	Elementary, 15	—	—	—	About 20 years as solicitor's clerk, and 20 years unestablished service in Supreme Court.	Employed in Supreme Court.
Z. 46,273	38	Civil servant	Royal St. Anne's Society Schools, Redhill, 15.	—	—	—	6 months as solicitor's clerk ; 18 years as typist in Probate Registry	Typist in Probate Registry.
Z. 46,563	22	Schoolmaster	County School, Neath, 18.	—	—	—	—	Assistant teacher under Glamorgan County Education Committee.
Z. 46,616	21	Electrician	Elementary, 14	—	—	—	8 years as clerk to barrister who became a judge during this period.	Secretary to Rt. Hon. Lord Robson.
Z. 46,764	21	Accounts clerk, New Scotland Yard.	Dover College, 19.	—	—	—	—	Clerk, Bank of England.
Z. 48,303	29	Master poulterer	Elementary, 13½	—	—	—	15 years as solicitor's clerk.	Solicitor's clerk.
Z. 48,538	22	Farmer	St. Michael's College, Listowel, 19.	—	—	—	—	Clerk under L.C.C.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree (if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Nominations in 1913.								
*Z. 49,325	37	Engineer	Elementary ?	—	Yes	—	10 years in Land Registry.	Employed in Land Registry.
Z. 49,707	27	Clerk, House of Commons.	Westminster School, 17.	Oxford, B.A.	—	—	—	Temporary clerk, House of Commons.
Z. 51,348	22	Butler	St. Mark's College, Fulham, 15½.	—	—	—	Employed for 6 years as assistant cashier to official solicitor to Supreme Court.	Assistant cashier to official solicitor.
Z. 50,142	28	Compositor	Elementary, 14	—	—	—	13 years as temporary clerk and assistant clerk (abstractor) in Land Registry.	Assistant clerk.
Z. 50,451	29	Permanent Under Secretary of State for War.	Dulwich College, 19.	—	—	—	Spent 2 years as articled clerk to solicitor.	Had been learning singing for 6 years.
Z. 50,069	22	Civil servant	Whitgift Grammar School and Bishop Vesey's Grammar School, 17.	—	—	—	—	Assistant clerk under Land Values Reference Committee.
Z. 50,774	23	Clerk to Education Authority.	Newport Grammar School, 17.	—	—	—	—	Learner in Post Office.
Z. 51,553	21	Barrister's clerk.	Richmond County School, 15.	—	—	—	About 6 years as solicitor's clerk.	Helping his father.
Z. 49,195	54	Solicitor's clerk.	Elementary and private schools, 14.	—	—	—	2 or 3 months as barrister's clerk ; about 11 years as solicitor's clerk ; 21 years as writer in Scrivenery Department of Law Courts.	Writer, Scrivenery Department.
Z. 51,259	26	Confectioner	Elementary (Church) school, 14½.	—	—	—	9 years as solicitor's clerk.	Clerk under Road Board.
Z. 48,930	20	Principal clerk, Probate Registry.	Uppingham School, 17½.	—	—	—	About 1 year in Public Trustee's Office.	Clerk under Public Trustee.
Z. 52,136	21	Barrister	Rugby School, 17½.	—	—	—	—	Had resigned commission in the Army 3 months before nomination ; no occupation since.
Z. 50,070	24	Shorthand writer and reporter.	Elementary schools, 15.	—	—	—	About 6 years as writer in Admiralty Registry.	Writer in Admiralty Registry.
Nominations in 1914.								
Z. 51,890	29	Corn merchant	Tonbridge, 18	—	—	Yes	Five years as articled clerk, 4 years as admitted clerk.	Private work (legal).
Z. 52,199	25	Civil engineer	Tonbridge, 18	—	—	Yes	5½ years as articled clerk. About 6 months as managing clerk.	None for about nine months before nomination.
Z. 52,807	29	Solicitor's managing clerk.	Haberdashers' Aske's School, Hoxton, 15.	—	—	—	14 years as solicitor's clerk.	Solicitor's clerk.
Z. 53,673	22	Clerk, Supreme Court.	Whitgift Middle School, 18.	—	—	—	—	Employed by German commercial firm at Stuttgart.
Z. 51,794	20	Tailor	Saltcoats Public School, 14.	—	—	—	One year as solicitor's clerk at age of 16—17.	Lower Grade Clerk at Board of Trade (Labour Exchange).
Z. 52,525	21	Civil servant	Private schools, 17.	—	—	—	—	Clerk in insurance company.
Z. 52,549	24	Superintendent's Staff, Royal Courts of Justice.	National school, 15.	—	—	—	Nine years as solicitor's clerk, starting at age of 15.	Solicitor's clerk.
Z. 51,994	21	Foreman packer.	Elementary school, 14.	—	—	—	Seven years as solicitor's clerk, starting at age of 14 ; and a few months in Supreme Court.	Employed in Supreme Court.

Number.	Age.	Father's Profession.	School, and Age on Leaving.	University and Degree if any).	Barrister.	Solicitor.	Legal Experience.	Occupation at time of Nomination.
Z. 52,149	24	Sign glass and facia writer.	Elementary school and private tuition, 15.	—	—	—	Nine years as solicitor's clerk, starting at age of 15, and a few months in Supreme Court.	Employed in Supreme Court.
Z. 52,420	28	Rubber merchant.	Liverpool College, 19.	Oxford (4 years)	Yes	—	Practising barrister for 3 years.	Barrister.
Z. 51,931	29	Schoolmaster	Private tuition and King's College (Strand School), 15.	—	—	—	—	Telegraphist in Post Office.
Z. 51,968	21	Wesleyan minister.	Leight Grammar School, 19.	—	—	—	—	Schoolmaster.
Z. 52,523	22	Solicitor	King William's College, Isle of Man, 18.	—	—	—	—	Secretary to International Development Company.
Z. 53,143	20	Estate agent	St. Bees School, 15.	—	—	—	—	Clerk under London County Council.
Z. 54,419	26	Civil servant	Dulwich, 18½	King's College, London.	—	—	4 years as unpaid clerk to solicitor.	Clerk to solicitor.
Z. 53,971	25	Railway goods manager.	Kendrick School. Reading, 17.	—	—	—	—	Clerk under railway company.

APPENDIX XCVIII.

(Handed in by Mr. B. J. Bridgeman.)

Vide Q. 51,578.

COUNTY COURTS.

WHOLE-TIME REGISTRARS ON PENSIONABLE SALARIES.

Court.	Name.	Salary.
Birmingham -	Whitelock, W. H.	750 <i>l.</i> County Court, 650 <i>l.</i> District Registry = 1,400 <i>l.</i>
" - - -	Lowe, A. L. -	650 <i>l.</i> County Court, 550 <i>l.</i> District Registry = 1,200 <i>l.</i>
Brentford - -	Sills, F. C. -	900 <i>l.</i> County Court.
Exeter - - -	Daw, J. E. -	685 <i>l.</i> County Court, 125 <i>l.</i> District Registry = 810 <i>l.</i>
Leeds - - -	Greenhow, W. H.	770 <i>l.</i> County Court, 330 <i>l.</i> District Registry = 1,100 <i>l.</i>
" - - -	Gillespie, F. W.	630 <i>l.</i> County Court, 270 <i>l.</i> District Registry = 900 <i>l.</i>
Manchester - -	Atkinson, A. H.	1,400 <i>l.</i> County Court.
Newcastle-on-Tyne	Dendy, F. W. -	900 <i>l.</i> County Court, 300 <i>l.</i> District Registry = 1,200 <i>l.</i>
Nottingham - -	Beaumont, R. H.	1,000 <i>l.</i> County Court, 200 <i>l.</i> District Registry = 1,200 <i>l.</i>
Plymouth - -	McCrea, F. B. -	950 <i>l.</i> County Court, 150 <i>l.</i> District Registry = 1,100 <i>l.</i>
Salford - - -	Addie, R. F. -	800 <i>l.</i> County Court.
Wakefield - -	Mason, F. -	710 <i>l.</i> County Court, 90 <i>l.</i> District Registry = 800 <i>l.</i>
West Bromwich -	Walker, G. W. -	860 <i>l.</i> County Court, 80 <i>l.</i> District Registry = 940 <i>l.</i>
Wolverhampton -	Cope, G. B. -	900 <i>l.</i> County Court, 150 <i>l.</i> District Registry = 1,050 <i>l.</i>

APPENDIX XCIX.

*(Handed in by Mr. B. J. Bridgeman.)**Vide Q. 51,607.*

COUNTY COURTS.

1915.

COURTS IN WHICH THE PLAINTS HAVE AT SOME TIME EXCEEDED 6,000, OR IN WHICH REGISTRARS
HAVE FIXED SALARIES.

County Court.	Allowances for		County Court.	Allowances for	
	Clerk Hire.	Service and execution of Process.		Clerk Hire.	Service and execution of Process.
	£	£		£	£
Aberdare, &c. - - -	550	610	Manchester - - -	2,220	1,600
Ashton-under-Lyne, &c. - - -	450	450	Mansfield - - -	448	550
Barnsley - - -	700	775	Marylebone - - -	1,200	1,058
Birkenhead - - -	888	800	Merthyr Tydfil - - -	600	665
Birmingham - - -	6,500	2,716	Middlesbrough - - -	950	856
Blackburn, &c. - - -	459	470	Neath and Aberavon - - -	680	780
Bloomsbury - - -	1,660	925	Newcastle-under-Lyme - - -	380	420
Bolton - - -	900	1,150	Newcastle-upon-Tyne - - -	955	717
Bow - - -	1,900	1,910	Nottingham - - -	2,150	2,365
Bradford (Yorks) - - -	950	1,000	Oldham - - -	900	800
Brentford - - -	560	641	Plymouth - - -	900	754
Bridgend - - -	600	665	Pontefract - - -	666	830
Brighton - - -	800	870	Pontypridd, &c. - - -	1,700	1,598
Bristol - - -	2,300	2,337	Portsmouth - - -	440	470
Burnley - - -	450	480	Rochester - - -	675	690
Burslem - - -	395	300	Rotherham - - -	1,087	1,020
Burton-on-Trent - - -	450	330	St. Helens and Widnes - - -	515	590
Bury - - -	436	500	Salford - - -	1,640	1,515
Cardiff - - -	825	862	Sheffield - - -	2,450	1,605
Chesterfield - - -	570	635	Shoreditch - - -	1,650	898
Clerkenwell - - -	1,700	1,938	South Shields, &c. - - -	587	425
Coventry - - -	575	300	Southwark - - -	1,465	1,044
Croydon - - -	350	550	Stockton-on-Tees - - -	550	700
Derby, &c. - - -	1,200	945	Stoke-on-Trent, &c. - - -	585	450
Dewsbury - - -	640	752	Sunderland - - -	750	600
Doncaster - - -	700	680	Swansea - - -	850	1,050
Dudley - - -	505	580	Tredeggar - - -	425	470
Exeter - - -	390	300	Wakefield - - -	640	650
Great Grimsby - - -	900	1,050	Walsall - - -	1,000	750
Greenwich and Woolwich - - -	760	726	Wandsworth - - -	1,240	850
Halifax - - -	628	742	West Bromwich - - -	863	730
Hanley - - -	545	650	West Hartlepool - - -	374	400
Huddersfield - - -	505	485	West London - - -	1,150	1,077
Kingston-on-Hull - - -	1,400	1,270	Westminster - - -	2,450	1,218
Lambeth - - -	1,200	1,404	Whitechapel - - -	1,360	1,004
Leeds - - -	2,980	2,290	Wigan - - -	850	880
Leicester - - -	1,400	1,072	Wolverhampton - - -	1,200	890
Liverpool - - -	2,750	1,866			

APPENDIX C.

(*Handed in by Mr. Gordon Simpson.*)

THE DISTRICT PROBATE REGISTRARS ASSOCIATION.

SUMMARY OF THE STATISTICAL RETURNS OF THE DISTRICT PROBATE REGISTRIES FOR THE YEAR ENDED 31ST DECEMBER 1914.

District Registry.	Registrars. Barristers. † Solicitors.	Total Number of Grants, 1913.	Total Number of Grants, 1914.	Number of Grants extracted.					Fees. £ s. d.	Registrar's Salary. £	Clerks' Salaries.	Extra Payments for Copying. £ s. d.
				On Personal Application.		By Solicitors.						
				At Registry.	Through Inland Revenue.	Through County Court.	At Registry.	Through Inland Revenue.				
Bangor	-	526	532	298	5	8	311	-	946	7 6	330	Nil
Birmingham	-	1,208	1,272	292	92	1	887	-	2,958	7 9	800	85 11 2
Blandford	-	337	344	75	57	-	212	-	705	13 0	250	Nil
Bodmin	-	753	732	75	123	2	532	-	1,350	3 3	510	24 17 2
Bristol	-	892	791*	215	48	-	528	-	1,882	2 6	600	107 14 3
Bury St. Edmunds	-	168	193	39	9	-	145	-	386	4 3	240	Nil
Canterbury	-	333	322	136	59	3	124	-	592	12 6	350	Nil
Carlisle	-	872	767	56	33	8	670	-	1,584	8 3	530	Nil
Carmarthen	-	530	543	181	165	-	197	-	846	17 6	330	46 0 9
Chester	-	1,042	1,114	180	238	6	674	16	2,543	19 6	800	103 0 1
Chichester	-	217	220	40	21	2	156	1	422	19 6	200	240
Derby	-	717	741	240	91	1	405	4	1,477	11 3	600	530
Durham	-	1,742	1,713	287	121	10	1,295	-	2,993	0 6	500	1,140
Exeter	-	1,151	1,116	148	241	5	720	2	2,376	8 3	1,000	830
Gloucester	-	760	743	120	47	-	576	-	1,552	2 6	600	400
Hereford	-	457	443	88	58	3	294	-	844	12 11	400	330
Ipswich	-	567	641	126	99	3	412	1	1,304	16 6	450	330
Lancaster	-	1,525	1,597	185	258	5	1,146	3	3,062	13 3	700	1,030
Leicester	-	713	766	187	23	-	556	-	1,619	18 0	500	385
Lewes	-	700	634	72	109	-	445	8	1,623	5 0	350	390
Lichfield	-	1,226	1,208	101	272	3	826	6	2,146	19 0	800	960
Lincoln	-	632	591*	63	81	1	438	8	1,090	19 3	500	330
Liverpool	-	2,075	2,173	666	116	5	1,375	11	5,104	1 3	750+	208 0 5
Llandaff	-	1,274	1,280	385	138	10	747	-	2,412	11 0	350	83 16 6
Manchester	-	2,304	2,379	909	377	12	1,058	23	4,741	5 1	800+	208 5 1

See Notes on page 166

SUMMARY OF THE STATISTICAL RETURNS OF THE DISTRICT PROBATE REGISTRIES FOR THE YEAR ENDED 31ST DECEMBER 1914—continued.

District Registry	Registrars. Barristers. † Solicitors.	Total Number of Grants, 1913.	Total Number of Grants, 1914.	Number of Grants extracted.						Fees. £ s. d.	Registrar's Salary.	Clerks' Salaries.	Extra Payments for Copying
				On Personal Application.			By Solicitors.						
				At Registry.	Through Inland Revenue.	Through County Court.	At Registry.	Through Inland Revenue.					
Newcastle-on-Tyne	-	1,068	1,099	221	31	1	846	—	£ 2,365	£ 500	£	Nil	d.
Northampton	-	369	380	72	37	2	269	—	651	250	625	Nil	
Norwich	-	753	713	140	32	1	540	—	1,437	700	250	59	5 7
Nottingham	-	906	937	304	50	—	583	—	1,994	400	420	83	14 8
Oxford	-	696*	938	103	178	3	650	4	1,886	500	524	5	17 2
Peterborough	-	517	494	80	53	—	360	1	857	330	595\$	Nil	
Saint Asaph	-	571	508	116	92	1	299	—	729	350	330	Nil	
Salisbury	-	354	329	49	100	—	180	—	568	320	320	Nil	
Shrewsbury	-	411	428	102	74	3	249	—	772	350	330	Nil	
Taunton	-	272	257	65	25	2	165	—	465	350	310	Nil	
Wakefield	-	3,370*	3,491	349	876	19	2,187	60	6,765	1,200	1,610	291	17 8
Wells	-	307	326	33	33	—	260	—	698	320	Nil	32	5 3
Winchester	-	504*	583	84	340	—	154	5	919	500	330	63	0 3
Worcester	-	625	600	105	81	2	412	—	1,404	500	385	102	7 4
York	-	1,045*	1,027*	75	176	3	719	54	2,157	1,000	880	2,099	2 0
TOTALS	- - -	—	34,965	6,972	5,059	125	22,602	207	70,245	21,250	22,379	2,077	7 4½
TOTALS in 1913	- - -	34,489	—	6,762	4,955	136	22,436	200	70,415	21,250	22,175	2,077	7 4½

* In 1914 during the vacancies at York, Lincoln, Bristol and Carlisle, 58, 68, 94, and 38 cases respectively were transmitted to London; and in 1913 during the vacancies at Oxford, Wakefield, Winchester and York, 153, 118, 37, and 50 cases respectively. These figures are not included in the above returns.

† 250% at Liverpool and 200% at Manchester, additional, as Joint District Registrars of the High Court.

NOTE.—In the Principal Registry there were 37,578 grants in 1913 and 37,481 in 1914.

§ 65L temporary clerk.

GORDON L. SIMPSON, Hon. Secretary, York.

APPENDIX CI.

(Handed in by Mr. F. A. Stringer.)

Vide Q. 53,853.

SCRIVENERY DEPARTMENT, ROYAL COURTS OF JUSTICE.

RETIRING GRATUITY.

Comparison of amount of earnings calculated on average of last three years of service, with the amount calculated on average of entire length of service since the formation of the Scrivenery Department in 1891.

These are the only retirements we have had during the last five years.

J. C. RUCK retired in February 1911 :—

	£	s.	d.
Average for last 3 years -	134	3	8
" " " 19 " -	166	18	6

W. FORREST retired January 1913 :—

Average for last 3 years -	174	18	6
" " " 21 " -	214	13	0

C. A. TOMKINS retired February 1913 :—

Average for last 3 years -	93	19	0
" " " 21 " -	94	5	9

In each of the above cases the amount of gratuity granted was the one above shown as the average of the last three years.

FRANCIS A. STRINGER,
1st May 1915.

APPENDIX CII.

(Handed in by Mr. J. S. Stewart-Wallace.)

Vide Q. 54,693.

PARTICULARS RELATING TO THE STAFF OF THE LAND REGISTRY, APRIL 1915.

Name.	Qualifications.	Age on Appointment.	Date and Rank of First Appointment.	Subsequent Career.	Present Salary.
FIRST CLASS CLERKS.					£
T. W. Whitmore-Jones	Marlborough ; St. John's Coll., Oxon ; B.A., 1886 ; Bar, July 1889.	36	9 Jan. 1900, 2nd Cl. Clerk.	Sec. to the Regr., 1 Apl. 1900. Additional salary, 50l. Chief Assistant, 19 Aug. 1902. Salary, 375l. to 400l. Maximum increased to 460l. 1 Apl. 1909. 1st Cl. Clerk, Dec. 1911, dating from 1 May 1911. Salary commencing at 520l.	580
A. R. G. Jennings	Harrow ; Trinity Coll., Camb. ; LL.B., 1881 ; Bar, May 1884.	42	22 Feb. 1901, Temp. Clerk, salary 240l.	2nd Cl. Clerk, 11 Nov. 1902. Chief Asst., 1 Apl. 1904. Salary, 350l.-400l. Maximum increased to 460l. 1 Apl. 1909. 1st Cl. Clerk, Dec. 1911, dating from 1 May 1911. Salary commencing at 520l.	580
R. J. M. Borough	Repton ; Pemb. Coll., Oxon ; B.A. 1890 ; M.A. 1894 ; Bar, Jan. 1893.	30	4 Dec. 1899, 2nd Cl. Clerk.	Chief Asst., Dec. 1911. 1st Cl. Clerk (dated back to) 1 May 1911. Salary commencing at 460l.	520
J. S. Stewart-Wallace	Royal Univ. Ireland ; Heidelberg Univ. ; Lincoln Coll., Oxon ; B.A., 1899 ; Vinerian Scholar, 1900 ; Bar, May 1900 ; M.A., 1903.	26	13 Aug. 1900, 2nd Cl. Clerk.	1st Cl. Clerk, Dec. 1911, dating from 1 May 1911.	510
G. A. H. Rendall	Rugby ; C.C.C., Oxon ; B.A., 1890 ; Bar, April 1894.	33	10 Dec. 1900, 2nd Cl. Clerk.	1st Cl. Clerk, Dec. 1911, dating from 1 May 1911.	510
C. A. L. Lewis	Radley ; B.N.C., Oxon ; B.A., 1895 ; Bar, June 1900.	30	7 June 1904, Temp. Clerk, salary 240l.	2nd Cl. Clerk, 23 Dec. 1904. 1st Cl. Clerk, Dec. 1911, dating from 1 Nov. 1911.	510
S. Lowenthal	Rugby ; C.C.C., Oxon ; B.A., 1894 ; Solicitor, 1898 ; Bar, Jan. 1906.	31	1 Dec. 1902, Temp. Clerk, salary 180l.	Salary increased to 240l. 1 Dec. 1905. 2nd Cl. Clerk, 2 Nov. 1907. 1st Cl. Clerk, Dec. 1911, dating from 1 Nov. 1911.	510

PARTICULARS RELATING TO THE STAFF OF THE LAND REGISTRY, APRIL 1915—*continued*.

Name.	Qualifications.	Age on Appointment.	Date and Rank of First Appointment.	Subsequent Career.	Present Salary.
SECOND CLASS CLERKS.					
G. I. Holt - -	Solicitor, 1882 - - -	31	1 April 1892, Solicitor Clerk, salary 250 <i>l.</i> —400 <i>l.</i>	- - - -	£ 400
G. W. Falkner - -	Bar, Nov. 1903 - - -	23	9 April 1894, 3rd Cl. Clerk.	2nd Cl. Clerk, 21 July 1908 -	340
A. J. Sturton - -	Trinity Coll., Stratford-on-Avon; Solicitor, 1897.	28	11 June 1900, Temp. Clerk, salary 180 <i>l.</i>	Salary increased to 240 <i>l.</i> 19 Aug. 1902. Salary increased to 300 <i>l.</i> 8 July 1908. 2nd Cl. Clerk, 27 Jan. 1910.	375
C. W. Heneage - -	Eton; Univ. Coll., Oxon; B.A., 1896; Bar, 1902.	23	12 Dec. 1898, 3rd Cl. Clerk.	Asst. Sec., Aug. 1902. Additional salary 30 <i>l.</i> Secretary to the Regr., 1 Sept. 1907. Additional salary 70 <i>l.</i> 2nd Cl. Clerk, 4 May 1910.	340
D. H. Little - -	King's Coll., London; Private Sec. to Perm. Sec. to Lord Chancellor.	25	1 Oct. 1899, 3rd Cl. Clerk.	Clerk of Accounts, March 1904. Additional salary 30 <i>l.</i> 2nd Cl. Clerk and Secretary to Regr., 4 May 1910.	310
J. P. Purcell - -	Colonial Audit Office, 1895–7; Bar, Nov. 1900.	21	19 July 1897, 3rd Cl. Clerk.	2nd Cl. Clerk, 1 Nov. 1911 -	295
H. M. Rowland - -	Charterhouse - - -	22	20 Nov. 1899, 3rd Cl. Clerk.	Asst. Sec., 1 Sept. 1907. Additional salary 30 <i>l.</i> 2nd Cl. Clerk, 1 Nov. 1911.	295
G. W. H. Tupper - -	Harrow; B.N.C., Oxon; B.A., 1901; Bar, June 1903.	24	10 March 1902, Temp. Clerk, salary 104 <i>l.</i>	3rd Cl. Clerk, 26 April 1904. 2nd Cl. Clerk, 6 Dec. 1911.	295
C. C. Deans - -	Sedbergh; Bar, Jan. 1908 -	21	7 June 1900, Temp. Clerk, salary 52 <i>l.</i>	Salary increased to 100 <i>l.</i> 1 Jan. 1902. 3rd Cl. Clerk, 13 June 1904. 2nd Cl. Clerk, 13 Dec. 1911.	295
C. W. Farwell - -	Bath College; Bar, July 1905	20	13 Aug. 1900, 3rd Cl. Clerk.	2nd Cl. Clerk, 2 Jan. 1913 -	280
P. Lee - - -	Rugby; Oriel Coll., Oxon; B.A., 1899; M.A., 1900; Bar, June 1906.	26	1 Oct. 1901, Temp. Clerk, salary 104 <i>l.</i>	3rd Cl. Clerk, 13 April 1904. Asst. Sec. and Asst. Clerk of Accounts, 1 Nov. 1911. Additional salary 50 <i>l.</i> 2nd Cl. Clerk, 5 Feb. 1914.	265
W. E. Munday - -	Solicitor's Clerk - - -	28	1 Jan. 1903, Temp. Clerk, salary 104 <i>l.</i>	Salary increased to 130 <i>l.</i> 1 July 1908. 3rd Cl. Clerk, 4 May 1910. 2nd Cl. Clerk, 5 Feb. 1914.	265
THIRD CLASS CLERKS.					
W. L. Robinson - -	Solicitor's Clerk, nearly 14 years.	28	22 Jan. 1900, 3rd Cl. Clerk.	- - - -	200
E. A. Weaire - -	Solicitor's Clerk; Clerk in Charge, Chertsey County Court; Cashier, Wandsworth County Court, 5 years.	27	2 Sept. 1900, 3rd Cl. Clerk.	- - - -	200
F. H. Robinson - -	- - - - -	23	31 Dec. 1900, 3rd Cl. Clerk.	- - - -	200
A. F. Assig - - -	- - - - -	—	6 Nov. 1899, Temp. Clerk, salary 52 <i>l.</i>	Salary increased to 100 <i>l.</i> 16 July 1900. 3rd Cl. Clerk and Asst. Superintendent in *Scrivenery Dept., 1 April 1901.	200
E. O. Byers - - -	Stockwell Coll.; Peckham Higher Grade School; Solicitor's Clerk for 8 years, including 2 years as Asst. Man. Clerk.	23	11 March 1902, 3rd Cl. Clerk.	- - - -	200
H. S. Wasbrough - -	Radley; Trin. Hall, Camb.; B.A., 1903; 2 years in Solicitor's Office.	26	11 April 1904, 3rd Cl. Clerk.	- - - -	200
A. H. Coates - - -	Bedford; 3 years in Office of Town Clerk of Bedford; 18 months as Committee Clerk.	19	19 Sept. 1899, Clerk in Map Dept.	3rd Cl. Clerk, 1 Sept. 1904 -	200

* The post of Asst. Sup. of the Scrivenery Dept. in the Royal Courts of Justice is held by a 2nd Cl. Clerk, the present holder of the office having received his training as a writer in this Department under the immediate supervision of Mr. Assig.

APPENDIX CIII.

(Handed in by Mr. Stanley Leathes, C.B.).

TABLE showing the PROPORTION successful of the CANDIDATES at the OPEN COMPETITIONS for Clerkships in the Register House Departments, Edinburgh, held in Ten Years (1905-14).

Date of Competition.	Number of Candidates examined.	Number ultimately Successful	Per-centage.
1905, August - - -	5	1	20·0
1906, March - - -	8	1	12·5
1907, January - - -	4	3	75·0
1907, December - - -	5	2	40·0
1909, March - - -	7	2	28·6
1910, March - - -	8	3	37·5
1911, September - - -	8	5	62·5
1912, June - - -	11	3	27·3
1913, April - - -	7	5	71·4
Total - - -	63	25	39·7
Average - - -	7	2·8	—

APPENDIX CIV.

(Handed in by Mr. Stanley Leathes, C.B.).

PARTICULARS as to CANDIDATES Successful in OPEN COMPETITIVE EXAMINATIONS for Clerkships in Departments of the General Register House, Edinburgh, in the Ten Years 1905 to 1914.

Number.	Age.	Father's Occupation.	School and Age on Leaving. University and Degree, if any.	Legal Experience (or other previous Qualifying Employment).	Occupation at Time of Examination.
OPEN COMPETITION OF AUGUST 1905.					
E. 84511	22	Minister (United Free Church).	St. Mungo's College, Glasgow, 20.	Apprentice to Solicitor, 5 years.	Solicitor's Appren- tice.
OPEN COMPETITION OF MARCH 1906.					
E. 85321	22	Church Furnisher	Royal High School, Edinburgh, 15.	Apprentice to Law Agent, 3 years. Clerk to Law Agent, 3½ years.	Law Agent's Clerk.
OPEN COMPETITION OF JANUARY 1907.					
E. 86604	21	Bank Agent -	High School, Glasgow. 17 Glasgow University.	Apprentice to Solicitor, 4 years.	Law Clerk.
E. 86603	24	Crofter -	Sharp's Institution, Perth, 16.	General Clerk to Solicitor, 2 years. Engrossing Clerk (Sa- sines), 4 years.	Engrossing Clerk to the Keeper of General Register of Sasines.
E. 86602	21	Builder and Con- tractor.	Secondary Burgh School, Dalkeith, 15.	Boy Clerk, Register House, 4 years.	Register House Clerk.
E. 88264	20	Publisher's Travel- ler.	Sciennes Public School, Edinburgh, 14.	Junior Clerk to Solicitor, 5 years.	Conveyancing Clerk.
E. 88262	24	Shoemaker -	Polmadie Public School, 12.	Conveyancing Clerk, 1 year Junior Clerk and Appren- tice to Notary Public, 11 years.	Clerk to Notary Public.

Number.	Age.	Father's Occupation.	School and Age on leaving. University and Degree, if any.	Legal Experience (or other previous Qualifying employment).	Occupation at time of Examination.
OPEN COMPETITION OF MARCH 1909.					
E. 90478	22	Farmer - -	Kelso High School, 15 -	Clerk to Solicitor, 6 years Conveyancing Clerk, 1 year	Conveyancing Clerk.
E. 90480	21	Assistant Keeper of General Register of Sasines.	Daniel Stewart's College, 17.	"In Solicitor's Office," 4 years.	Cashier in Solici- tor's Office.
OPEN COMPETITION OF MARCH 1910.					
E. 92586	21	Printer's Composi- tor.	Daniel Stewart's College, 15.	Clerk to Writers to the Signet, 6½ years.	Clerk to Writers to the Signet.
E. 92585	20	Ordnance Surveyor	Daniel Stewart's College, 16.	Boy Clerk in Sasines Office, 3 years.	Temporary Clerk in Sasines Office.
E. 92591	21	Stationer - -	Thomson's Academy, Dundee, 16.	Boy Clerk in Sasines Office, 2½ years.	Abstractor in P.O. Engineers' Office.
OPEN COMPETITION OF SEPTEMBER 1911.					
E. 98678	23	Hone Sawyer -	Ayr Secondary Academy, 15.	Engrossing Clerk to Solici- tor, 5 years. Assistant Conveyancer, 3 years.	Assistant Convey- ancer.
E. 98679	22	Schoolmaster -	George Heriot's School, 15.	General Clerk to Solicitor, 7 years.	Solicitor's Clerk.
E. 98683	20	Joiner and Builder	Linlithgow Academy, 16	Temporary Boy Clerk, 3 years. Temporary Clerk in Sasines Office.	Assistant Clerk in Prison Com- mission.
E. 98682	21	Draughtsman -	Allan Glen's School, 15 -	Apprentice to Solicitor, 6 years.	Solicitor's Appren- tice.
E. 98676	21	Book-keeper -	George Heriot's School, 16.	Clerk to Law Agents, 5 years.	—
OPEN COMPETITION OF JUNE 1912.					
E. 99941	24	- - - -	Parsons Green Board School, 14.	Parliament House Clerk to Writers to the Signet, 11 years.	Clerk to Writers to the Signet.
E. 99940	20	Coal Contractor -	Lasswade Higher Grade School, 17.	Apprentice to Law Agents, 3 years.	Law Apprentice.
E. 99946	22	Clothier - -	George Watson's College, 15.	Conveyancing Clerk to Writers to the Signet, 5 years.	Conveyancing Clerk.
OPEN COMPETITION OF APRIL 1913.					
E.102421	23	Stationer - -	Allan Glen's School, 14. Glasgow University (B.L.)	Junior Clerk, Conveyanc- ing Clerk and Head Clerk to Writer to the Signet, 8 years.	—
E.102426	21	Marine Engineer -	Ayr Grammar School, 14	Clerk to Solicitor, 5 years. Conveyancing Clerk, 3 years.	Conveyancing Clerk.
E.102423	21	Joiner - - -	Aberlour Higher Grade School, 15.	General Law Clerk, 6 years	General Law Clerk.
E.102422	21	Stationer - -	Bell-Baxter School, Cupar, 16.	Boy Clerk in the Sasines Office, 4 years.	Clerk to Keeper of General Register of Sasines.
E.102424	21	Traveller in fancy goods.	Boroughmuir Higher Grade School, 14.	Court Clerk to Law Agent, 6 years.	Court Clerk to Law Agent.

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ADAM, EDWIN, K.C., Principal Clerk of Session :
55,922-56,260

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Allowance to, by registrar for extra official work,
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- - - - - 52,808-22, 52,823

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sionally - - - - - 53,025-30

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be raised - - - - - 52,886-9, 52,980-1

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clerks - - - - - 52,890-6

Solicitors' clerks generally - - - - - 52,894

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cation not allowed - - - - - 52,866-8

Fees, higher than in Principal Registry, and more
work therefore sent to London, and uniform scale
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advantage - - - - - 52,908-26

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Amount of fees taken for correspondence work
- - - - - 53,046-51

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sent to London - - - - - 52,963-5

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Convenience of system to public, and should
continue - - - - - 52,945, 52,952 52,970

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Committee, proposal approved - 52,781-2

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- - - - - 52,778, 52,780-1

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Clerks in Principal Registry as :
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cases 52,736-7, 52,754, 53,053-6, 53,065-74

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ALMS, EDWARD; SHADWELL, W. H. L., and
SIMPSON, GORDON—*continued.*

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Qualifications, experience as solicitor, question
of combining of, with experience as clerk in

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may be Qualified to become registrars of Prin-
cipal Registry - - - - - 52,975-7

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extra payment would be claimed, and

salaries should be reconsidered 52,759-61,
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also Registrar of County Court, no case known
of - - - - - 52,757-8

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- - - - - 52,755-6

Responsibility of - - - - - 52,851

Whole time not taken up by work in some cases
- - - - - 52,771-6

Sending of papers through Inland Revenue officers,
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Statistical returns for year ended 31st Dec. 1914,
summary - - - - - App. C.

Substitution by Inland Revenue officers, not con-
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System advantageous - - - - - 52,908

Territorial jurisdiction, abolition would be approved
- - - - - 52,933-7

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52,946-8

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pensions, &c., need for - - - 52,825-40

Solicitors' clerks, pensioning of, in some cases
- - - - - 52,875-81

ANDERSON, WILLIAM BOYD, President of the

Incorporated Society of Law Agents in Scotland

59,915-60,062

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by Lord President, question of representation in
Parliament - - - - - 60,027-9

Political considerations, abolition desired as far as
possible - - - - - 60,024

PROCURATORS FISCAL :

Appointment :

Committee not advocated, but if created must
appoint not only advise - - - 59,941-8

not Ideal system, but results satisfactory
- - - - - 59,935-6

by Lord Advocate, continuance advocated, and
question as to eliminating political considera-
tions, but possibility doubted - 59,949-54

by Lord President, question of - - 59,955-9

a Political system, and majority of Council of
Society of Law Agents object to - 59,937-40

Clerks :

Appointments, political considerations not in-
volved - - - - - 59,960-1

no Security of tenure, and dismissal should not
be possible without consent of Sheriff or Lord
Advocate - - - - - 59,962-70

Combination of districts advocated so that whole
time should be taken up by official work, with
system of *ad hoc* deputed when necessary

59,995-60,003

Deputes :

Pensions advocated - - - - - 60,012-5

Private practice, question of - - 60,019

Promotion by transfer advocated - 59,971-3

Qualifications, law agent advocated
- - - - - 59,927, 59,932-4

Holding of public appointments, approval of
- - - - - 59,992-3, 60,030-3

not a Law agent in one case, but no objection
- - - - - 59,930

ANDERSON, WILLIAM BOYD—*continued.*PROCURATORS FISCAL—*continued.*

- Pensions desirable for, but less important than for deputes - - - - 60,012-5
- Private practice, prohibition advocated, but holding of public appointments might be allowed, but difficulty in case of part-time officers
59,991-4, 60,009
- Promotion by transfer advocated - - 59,974-5
- Qualifications, advocate or law agent advocated
59,927-31

SHERIFF CLERKS :

Appointment :

- Committee not advocated, but if created must appoint, not only advise - - 59,941-8
- not an Ideal system, but results satisfactory
59,935-6
- by Lord Advocate, continuance advocated, and question as to eliminating political considerations, but doubt as to possibility - 59,949-54
- by Lord President, question of - - 59,955-9
- a Political system and majority of Council of Law Agents object to - - - 59,937-40

Clerks :

- Appointments, political considerations not involved - - - - 59,960-1
- Difficulty of keeping - - - 60,016-7, 60,036
- Pensions desirable - - - - 60,016-8

Promotion :

- Prospects of, would improve service, and question as to possibility - - - 60,038-43
- by Transfer, Committee of Sheriff Clerks would be approved - - - 59,977-85
- Salaries, comparison with law agents' offices
60,044-5
- no Security of tenure, and dismissal should not be possible without consent of Sheriff or Lord Advocate - - - - 59,962-70

Deputes :

- Appointment by Sheriff after consultation with Sheriff Clerk, no objection seen, and possible advantage - - - - 60,056-8
- Pensions advocated - - - - 60,012-5
- Private practice should not be allowed where whole time taken up by official work, but difficulty in case of part-timers, and suggestion
60,019-21

Promotion by transfer :

- Advocated - - - - 59,974-6
- by Committee of Sheriff Clerks would be advantageous - - - - 60,047-8

- Qualifications, qualified law agent not advocated as hard and fast rule - - - 59,924-6
- no Security of tenure, and Sheriff Clerk should not have absolute power of dismissal 60,053-5

Holding of public appointments, approval of

59,992-3, 60,030-3

Number, recommendation *re* reduction approved

59,986-90

Pensions desirable for, but less important than for deputes - - - - 60,012-5

Private practice, prohibition advocated, but holding of public appointments might be allowed

59,991-4, 60,010-1, 60,059-62

Promotion by transfer, advocated - - 59,974-6

Qualifications, qualified law agent with considerable experience of Sheriff Court business advocated, with possibility of exceptions

59,919-23, 60,049-52

Sheriff Courts, work well done - - - 60,022-3

ANDREW, JAMES—*continued.*SHERIFF CLERKS—*continued.*

Clerks :

- Appointment by open competition, objections to
58,110-4

- Pension system not advocated
58,065-9, 58,094-7

- Promotion from, upward, system suggested
58,054-60

- Promotion and transfer, proposed control by Committee of Sheriff Clerks, no difficulty seen, and approval of - - 58,061-4, 58,121
- Training, comparison with training in outside offices - - - - 58,112

Deputes :

Appointment :

- by Consultation with Sheriff after consultation with Sheriff Clerk would be approved, and preferred to Committee of Sheriff Clerks - - - 58,088-90, 58,106-9

- from Staff, and approval of 58,039-40, 58,054-6

- Appointment as auditors approved, and should continue - - - - 58,051

- Dismissal not advocated without right to appeal to Secretary for Scotland - - 58,087

- Fixity of tenure desired - - - 58,086-7
- previous Legal experience, importance of
58,016-8

- Position of - - - - 58,091-3

- Restriction of private practice, desirable and practicable - - - - 58,052-3

- Duties of, and deputes, *re* registration of voters and elections - - - - 58,083-5

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- One head of service, objections to proposal
58,118-20

- Organisation of offices satisfactory - 58,076

- Pension system for deputes and, advocated, and suggestion *re* 58,065-75, 58,095-7, 58,103-5,
58,115-6

- Promotion system among, and among deputes, desirable and would work satisfactorily
58,045-6, 58,054

- special Qualifications required - - 58,015

- Reduction of number, and whole-time appointments only, desirable - - - - 58,047-50

Staff under :

- Debarred from qualifying as law agents by Law Agents Act, 1873, and change advocated
58,077-9

- no Difficulty in obtaining satisfactory recruits
58,041

- Promotion, regular system of, question of advantage or not - - - - 58,042-4

- Promotions and transfer, extent of - 58,034-40

- different Treatment from ordinary law clerks, with right of competition in profession not necessary - - - 58,111-4, 58,124-5

- Sheriffs and Sheriffs Substitute, pension system
58,069-72, 58,098

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51,318-20, 51,342

Appointment, England :

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- Present limits and suggestions *re*, *Muir Mackenzie*, 44,004-6 ; *Stringer*, 49,642-4 ; *Macdonell*, 45,442, 45,451-2 ; *Fox*, 47,779-80 ; *Townesend*, 52,332, 52,367, 52,374, 52,380-1 ; *Kentish*
54,464-5

- Question whether 30 too high, *Loreburn* 50,681-3

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- Method of dealing with, in Lord Chancellor's office, *Muir Mackenzie* - - 44,033-41, 44,048

- Possibility of making, apparently well known, *Muir Mackenzie* - - - - 44,036-9

- Candidates, comparison with candidates for second division and assistant clerkships, *Leathes* 48,860-1

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- Age limits, 18 to 25 suggested, *Leathes* 48,873-7

- Alteration advocated, *Muir Mackenzie*, 44,091-5 ;
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Appointment, Committee to advise on, no purpose would be served by, in Scotland, and political influences would not necessarily be avoided 58,031-3

SHERIFF CLERKS :

Appointment :

- Method and retention advocated
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- Political considerations, but appointments good, and difficulty of change of system
58,022-30, 58,080-2

- as Auditors, not advocated - - - 58,051

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Conditions, &c., <i>Leathes</i> - - - -	48,840-50, 48,919-21
Failures in, men allowed to sit again and paid as temporary clerk in meanwhile, <i>Stringer</i>	49,802-12
Inadequacy of, as test of good education, <i>Macdonell</i>	45,590
Legal procedure instead of digesting of returns, suggestion, <i>Stringer</i> - - - -	49,665-71
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Scheme would have to be worked out by sub-committee or between Lord Chancellor and Treasury, <i>Muir Mackenzie</i> - - - -	55,261
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COMPETITION :	
should be Adopted wherever possible, and legal work could probably be learnt after appointment, <i>Leathes</i> - - - -	48,936-46
Advocated - <i>Mais</i> , 52,480-5, 52,502, 52,592-4, 52,604-5; <i>Macdonell</i> , 45,455-60, 45,592-4	
not Advocated, and objections to proposal, <i>Musgrave</i> , 44,576-87, 46,511-8; <i>Farmer</i> , 46,912-3; <i>J. R. B. Gregory</i> , 47,257-64, 47,338-9; <i>Austen-Cartmell</i> , 47,664-6; <i>Fox</i> , 47,784-6; <i>Bayford</i> , 48,119-25, 48,204-6, 48,215-20; <i>Stringer</i> , 49,654-5, 49,882-6; <i>Hansell</i> , 50,940-4; <i>Sartoris</i>	54,571
would be Approved for junior posts, but must be combined with personal interview and inquiry, <i>Wrenbury</i> , 54,871-9, 54,942-6, 54,959-76	
as in Civil Service generally, question of, <i>Wrenbury</i> , 54,965-76	
not Desirable for higher posts, but might do for third class, <i>Manston</i> - - - -	49,278
Higher class of men would not be obtained, <i>Townesend</i> - - - -	52,365
Limited :	
Advantages of, <i>Loreburn</i> - - - -	50,686-91
would be Approved in Lunacy Departments, <i>Theobald</i> - - - -	48,422-4
Difficulty, <i>Leathes</i> - - - -	48,865-7
Suggestion, <i>Haldane</i> - 609,14, 60,916, 60,970-2	
Suggestion, and question <i>re</i> inclusion of legal subjects, <i>Leathes</i> - - - -	48,878-86
for Lower grades would be approved and no difficulty seen, <i>Muir Mackenzie</i> - - - -	55,364-9
would not be Objected to, and question of limited or open, but question of personal interview, <i>Muir Mackenzie</i> - 44,050, 44,059-64, 44,346-55	
no Objection seen, <i>Leathes</i> , 48,859; <i>Roscoe</i> , 49,459-61; <i>Townesend</i> , 52,350, 52,362-6.	
Open, among men with certain legal experience : no Difficulty seen, <i>Muir Mackenzie</i> - 55,305-6	
Suggestion, <i>Leathes</i> - - - -	48,868-72
Open for some departments and nomination or limited competition for others, question of possibility, <i>Leathes</i> - - - -	48,868, 48,947-9
of Persons with certain experience in solicitor's office, no objection seen, <i>Austen-Cartmell</i>	47,667-8
not Possible as regards masters, <i>Muir Mackenzie</i>	44,070-1
Question of, and no objection seen provided man has certificate of legal and business capacity as solicitor's clerk, <i>Romer</i> - - - -	44,888-99
for Second or first class, possible difficulty, <i>Barnes</i>	49,366-71
Standard of education and intellectual attainment would probably be raised, <i>Leathes</i> - - - -	48,862
by Competition for general offices and selection for others, but possibility of promotion advocated, <i>Haldane</i> - - - -	60,915-9
DIRECT TO HIGHER CLASSES :	
Advocated, and schemes, <i>Fox</i> , 47,754-71, 47,996-8,000, 48,035-43, 48,059-78; <i>Caunt</i> , 50,083-7, 50,099, 50,272; <i>Kentish</i> , 54,401-5.	
Advocated as a rule, and promotion in exceptional cases, <i>Goodchild</i>	47,409-13, 47,435-6, 47,493-5
Advocated, solicitors' managing clerks to be specially considered for, <i>Worley</i> - - - -	48,257-302
Age limit, 50 suggested, and question in connection with pension, <i>Worley</i> - - - -	48,283-9
would be Approved in some cases, <i>J. R. B. Gregory</i>	47,276-80, 47,349-53

Appointment, England—continued.**DIRECT TO HIGHER CLASSES—continued.**

- Chancery judge would be suitable person to make selection, *Caunt* - - - 50,108-12
- Discretion of, should be left to proposed committee, *Loreburn* - - - 50,583
- Examination not considered necessary, *Caunt* 50,110-1, 50,302-3, 50,320-1
- of Managing clerks in solicitors' offices with 15-20 years' experience proposed, *Goodchild* 47,438-41
- if Opportunity to be given to third class clerks, candidate should satisfy official that he is fully qualified to perform duties, *Worley* - 48,297
- Question of, *Romer* - - 44,879-80, 45,015-22
- Question whether present rates of pay would be sufficient attraction, *Goodchild* - 47,446-9
- Right of, in theory, *Muir Mackenzie* - 55,262
- to Second class with subsequent promotion to first, advocated, *Goodchild* - - - 47,437
- Selection should be made by high officials with whom managing clerk comes in contact, *Goodchild* - - - 47,438, 47,442-5
- Solicitors' managing clerks would be suitable, *Caunt* - - - 50,100, 50,299-301
- Solicitor's managing clerk should not be compelled to obtain Civil Service certificate, *Worley* 48,299-300, 48,301
- at 30 suggested, *Caunt* - - - 50,101-7
- Young admitted solicitors or middle-aged managing clerks would be suitable, *J. R. B. Gregory* 47,281-6
- in Each division made by President of that division, by Section 84 of Judicature Act, 1873, *Muir Mackenzie* - - - 43,946, 43,990
- Exemption of certain offices in, from operation of Civil Service clause in Act of 1873, by amending Act of 1879, *Leathes* - - - 48,922-9
- Head of department should have voice in, *Macdonell* - - - 45,460-2
- TO HIGHER CLASSES:**
- Direct, see Direct to higher classes, above.
- by Promotion or from outside advocated according to where better man obtainable, *Wrenbury* 54,880-91, 54,929-41, 54,947-51, 54,980
- by Promotion advocated, with discretion to Board to appoint from outside, *Loreburn* 50,698-9
- BY LORD CHANCELLOR:**
- see also under Patronage below.
- no Objection seen to, *Wrenbury* - - 54,870
- Opinion of profession sufficient safeguard, *Manson* - - - 49,383-7
- Ultimate authority, *Wrenbury* - 54,864, 54,869
- Masters and registrars, see that title.
- Medical certificate should be required in all cases, *Heath* - - - 60,535-8
- Method, petitions by Solicitors' Managing Clerks Association to Lord Chancellor, *Worley* 48,257
- Nomination of man by each nominator and competition between the three suggested, *Townsend* 52,377
- Nomination, possible want of uniformity in methods, *Leathes* - - - 48,957
- No one not responsible to Parliament should have power of appointment, *Muir Mackenzie* 44,084-6, 55,249, 55,252-5
- Orders in Council instead of statutory regulations, no objection seen, *Heath* - - - 60,674-6
- Particulars as to candidates nominated since 1899, *Leathes*, 48,847-52, 48,899-910, Appendix XCVII.
- PATRONAGE:**
- Abolition of, question whether head of department should not have voice in appointment, *Muir Mackenzie* - - - 55,483
- Concentration of, in hands of Lord Chancellor desirable, *Heath*, 60,491-4; *Haldane*, 60,901-3, 60,949
- Personal solicitation experienced to slight extent in regard to minor appointments, *Loreburn* 50,544-5
- Political pressure experienced, for a time with regard to certain posts, but little now, *Loreburn* 50,542-3, 50,630
- in Practice almost entirely to third class, but not so under regulations, *Muir Mackenzie* 44,006, 44,011-4
- Principles of report of Royal Commission re patronage should be adopted, *Muir Mackenzie* 44,080-3, 44,052-8, 44,072-3, 44,079

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Qualifications, see under particular departments.

SECONDARY SCHOOL LEAVING CERTIFICATE:

- if Adopted would be good test for, and Civil Service examination might perhaps be dispensed with, *Stringer* - - - 49,874-8
- Suggestion, *Haldane* 60,912-4, 60,970-2, 61,000
- would be Valuable, *Wrenbury* - - 54,960

SYSTEM:

- not Approved, *Loreburn* - - - 50,540
- Particulars re, *Muir Mackenzie* 43,946, 43,990-8, 44,407-9
- Satisfactory, *Austen-Cartmell* - 47,662, 47,665
- Satisfactory in results, in way work done, *Loreburn* 50,540

VACANCIES:

- Intimation of:
- no Advantage seen, *Townsend* - - 52,370
- no Objection to, *Loreburn* - - 50,700-1
- Provision to enable consideration as to necessity for post, *Muir Mackenzie*, 44,484-5; *Heath*, 60,472

Appointment, Scotland:

see also under Court of Session and other departments.

- no Alternative system can be suggested, *R. Munro* 60,322-3

COMMITTEE TO ADVISE LORD ADVOCATE:

- Advantage doubted, *Mackenzie* - - 56,614-5, 56,648-55
- no Advantage seen, *Dodds*, 55,648; *Adam* 56,036-8
- not Advocated, *Scott-Dickson* 60,358, 60,392-4
- Civil Service Commissioner on, question not considered, but would depend on number of appointments, &c., to be dealt with, *Kennedy* 59,738
- Composition, question of, *Haldane* - 60,978-94
- Failure of, in case of appointments of Justices of the Peace, *Macnochie* - - 58,298-302
- would be Improvement for lower posts, *Haldane* 60,944-6, 60,973-7
- Objections to proposal, *Macnochie*, 58,298-304; *Fleming*, 59,395-404; *Dunedin*, 58,436, 58,510, 58,521; *Salvesen*, 58,932-3, 58,937, 59,003-5, 59,097-9; *R. Munro*, 60,160-2.
- Nomination by Lord Advocate preferred, and reasons, *Adam* - 56,114-22, 56,150-1, 56,162-9
- same Principle might apply as in England, but question on smaller scale than in England, *Heath* 60,497
- no Purpose would be served by, in Scotland, and political influences would not necessarily be avoided, *Andrew* - - - 58,031-3
- System would be applicable in Scotland, *Bisset* 57,139

COMPETITION:

- Extension of, no reason known against, *Dodds* 55,645-7
- Field, question of, compared with England, *Scott-Dickson* - - - 60,406
- Objections to, *Dunedin*, 58,447-51, 58,515-8; *Scott-Dickson*, 60,398-400, 60,412-4.
- same Type of man would not be obtained and work would not be as well done, *Adam* 56,124

CROWN:

- Abolition would be advantageous as regards organisation, and questions of transfer and promotion, *Adam* - - - 56,016-7
- Explanation and effect, *Dodds* - - 55,609-12
- Limit of 70 years of age fixed in warrants by arrangement with Treasury, but no statutory warrant for, *Adam* - - - 56,014-5
- Reduction of number:
- Legislation would be necessary, *Dodds* 55,639-40
- Suggestion, but Lord Advocate should be consulted, *Dodds* - 55,612, 55,636, 55,641
- Retention, no reason known for, *Adam*, 56,012-3; *Salvesen* - - - 58,951-4
- Retention of system for junior appointments not necessary, *R. Munro*, 60,215-6; *Scott-Dickson*, 60,386-91; *Heath*, 60,511.
- System of, and fees payable, *Adam* - 56,010-1
- Entry age limit, question as to desirability, *Salvesen* 59,023-6

Appointment, Scotland:—continued.

TO HIGHER POSTS :

from Outside :

an Advantage, *Mackenzie* - - - 56,705

Certain appointments should always be made

from outside, *Salvesen* - - - 59,060

Detrimental to lower grades of service, *Salvesen*
58,910-1

Objection to, that inferior may have to teach

superior, *Salvesen* - - - 59,057-9

as a Rule, *Dodds* - - - 55,642

from Outside or by promotion :

no Hard and fast rule advocated, *R. Munro*

60,123, 60,134, 60,143-7

must be left to discretion of Lord Advocate,

R. Munro - - - 60,166-9

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Advocated whenever possible, *Salvesen*, 58,904;

Scott-Dickson, 60,348-50, 60,355, 60,420.

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System disregarded in some cases, *Scott-Dickson*

60,359

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58,945-6

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Approval of, and advantages, *Adam*, 56,020,

56,221-6; *Dunedin*, 58,436, 58,509-14, 58,520-1

Approval of, and transfer to Secretary for Scotland

not advocated, *Haldane* - - - 60,973-5

Canvassing :

Extent of, and question of preventing, *Anderson*,

60,025; *Scott-Dickson*, 60,415-7.

Takes place, and objection to, *Salvesen* 59,070-1

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advocated, *Scott-Dickson* - 60,356-7, 60,461

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58,928-31

Retention advocated, *R. Munro* 60,163, 60,256-63

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Munro, 60,141, 60,163, 60,169; *Scott-Dickson*

60,357

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Objection to, *R. Munro* - - - 60,162

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in case of, *Salvesen* - - - 58,909, 58,929-31

Question of representation in Parliament, *Anderson*

60,027-9

Suggestion *re*, as alternative, *Salvesen* - 59,048,

59,097-107, 59,115-8

Ordinary method of admission by Civil Service cer-

tificate should be followed, *Heath* - - - 60,498

POLITICAL CONSIDERATIONS :

Abolition :

would be an Advantage if possible, *Scott-Dickson*

60,457-9

Advocated, although results good, *Lewis*

59,452-4, 59,533-5, 59,583-6

Desired as far as possible, *Adam*, 56,019;

Salvesen, 59,053-4; *Anderson*, 60,024.

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60,158-9, 60,273-7

Question of, *Haldane* - - - 60,944-6

not Applicable as regards clerical appointments,

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some Appointments made of men in opposite

party, *R. Munro* - - - 60,245

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safeguard against, *Adam* - - - 56,189-91

Attitude of profession as regards, *Scott-Dickson*

60,455-6

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60,326-8

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results, *Scott-Dickson* - 60,344-8, 60,463-4

Difficulty of preventing, *Salvesen* - - 58,906-9

Effects on politics, question of, *Dunedin*, 58,527-31;

Salvesen, 59,027-33; *Harrison*, 59,248-52; *R.*

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POLITICAL CONSIDERATIONS—continued.

Extent to which involved, question of, *Salvesen*,

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Bisset - - - 57,257-61

Good men appointed, *H. H. Brown* - - - 57,466

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58,902-3, 59,030-3, 59,046-7, 59,096

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by any tradition *re*, *R. Munro* - - - 60,149-57

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56,213-6

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58,523

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examples, *R. Munro* - - - 60,307

Qualifications, as law agent, opinion *re*, *Dunedin*

58,452-8

Results of system as regards keeping appointments

within legal profession, *Scott-Dickson* 60,401-10

Secretary for Scotland's position *re*, *Dunedin*

58,437-46

by Secretary for Scotland, advisory committee would

be approved for minor appointments, *Haldane*

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APPS, WESTON, writer in Scrivenery Department,

Royal Courts of Justice (joint evidence), *see*

STEWART, W., and APPS, WESTON

45,832-46,081

ASPINALL, BUTLER, K.C., Admiralty Division

50,813-80

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Appointment, method - - - 50,842

Retirement, fixed age desirable - - - 50,850

Excellence of registrar and merchants as tribunal

50,858-62

Referring of cases to arbitration instead of to

Court, reasons for - - - 50,868-75

Registrar :

Appointment, method, and statutory qualifica-

tion - - - 50,834-40

Assistance by two merchants - - - 50,818-25

Assistant :

Appointment, method - - - 50,834-5

Barristers most qualified as a whole 50,841,

50,863-7

Barristers most qualified as a whole - 50,841,

50,863-7

Retirement, fixed age desirable - - - 50,850-1

Solicitor as (Mr. Rothery), and ability of 50,837-9

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50,876-7

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advantage seen and present system considered

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50,844-9

Witnesses often heard - - - 50,828

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re, *Denman* - - - 51,473-7

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- all Barristers, as a rule, *Disturnal*, 47,604; *Denman* - - - - - 51,452
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 Combination of functions with post in Central Office would be impossible, *Denman* - 51,485-7
 Duties - *Disturnal*, 47,590-2; *Denman*, 51,445-7
 Judges' sons as, and opinions *re*, *Disturnal*, 47,625-30; *Denman*, 51,449-61, 51,466-9.
 Number, *Denman* - - - - - 51,410
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 Offices embodied in, *Denman* - - 51,412, 51,415
 Offices in London, and arrangements *re*, *Denman* 51,420-3
 Parentage of present men, *Denman* - - 51,469-71
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 Position, *Muir Mackenzie* - - 44,242, 44,359-62
 Private practice allowed, *Denman* - - 51,428-9
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 no Regular attendance required, and not an officer of the High Court, *Denman* - - - - 51,418-9
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 Salaries, *Muir Mackenzie*, 44,415; *Disturnal*, 47,608-9; *Denman*, 51,411.
SUBORDINATE OFFICERS:
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 Appointment:
 by Clerk of Assize, desirable, *Denman* 51,440-4, 51,517-21
 Method, and objection to, *Denman* 51,438-44, 51,517-21
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 Private practice allowed but cannot be done, *Denman* - - - - - 51,430, 51,494
 Retirement, no fixed age, and some inconvenience from, *Denman* - - - - - 51,481
 Salary, inadequacy of, *Denman* 51,416-7, 51,484, 51,490-3
 Work outside assizes, *Denman* - - - 51,431
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Assize Officers:

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ASSOCIATES:

- Duties - *Disturnal*, 47,593-5; *Denman*, 51,413-5
 Employment at Royal Courts of Justice might be possible when no circuit work, but no other officer, *Denman* - - - - - 51,486-8
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 Interpreters, fees to, *Denman* - - - 51,515
 Organisation, duties, &c., *Disturnal* - 47,589-610
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- Explanation, *Morton* - - - - - 52,626
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- Membership, *Lowe* - - - - - 53,325
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- Actual time of arrival should be signed, *Evans* 60872-3
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- AUSTEN-CARTMELL, JAMES - - - 47,631-742
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- Amalgamation with Chancery Registrars, objections to - - - - - 47,705-12
 Appointment:
 by Lord Chancellor, no change advocated 47,640-2
 from Subordinate officers, not advocated 47,637-9, 47,669, 47,681-91
 Attendance in court in a few cases, but no alteration in practice to extend necessary - 47,660-1
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 Number, decrease might be possible - 47,647
 Organisation of office satisfactory, judging by results - - - - - 47,670
 Solicitor from 35-45 with considerable experience as a principal the most qualified man 47,635-9
 Vacation, arrangements for work believed to be satisfactory - - - - - 47,648
 Work well done and without arrears - 47,643-6
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CHANCERY REGISTRARS:

- Allocation to particular judges, proposal not agreed with - - - - - 47,706-9
 Appointment:
 Direct from the Bar or solicitors, would be a mistake - - - - - 47,682, 47,693
 from Principal clerks, system considered satisfactory - - - - - 47,678-91
 Attendance in court, system - - - 47,729-31
 Clerks:
 Promotion by seniority, preferable - 47,718-9
 Qualification, legal training desirable and solicitor's examination possibly the best 47,693-4, 47,738-41
 Work well done - - - - - 47,677

CLERKS:

- Appointment:
 Competition:
 Open, not advocated - - - - 47,664-6
 of Persons with certain experience in solicitor's office, no objection seen - 47,667-8
 System satisfactory - - - - 47,662, 47,665
 Clerks in solicitors' offices the most suitable 47,663
 Legal Departments, no important change suggested in organisation or method of appointment, but certain economies might be effected 47,720-8
 Lunacy Department, work considered to be well and expeditiously done - - - 47,714-7
 Masters, no objection seen to fixed age for retirement if late enough for man to earn sufficient pension, and system of added years would be approved 47,649-55
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- Appointment from clerks not advocated 47,699-700
 Barristers appear before, occasionally 47,702-3
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 Solicitors as, essential - - - - 47,695-9
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BAKER, MASTER WILLIAM FREDERICK, Senior
Master in the Taxing Office of the Supreme Court
45,675-831

TAXING MASTERS OF THE SUPREME COURT:

Appointments:

Method and approval of - 45,711, 45,715-9
Standing Committee to advise on, suggestion
not agreed with - - - 45,717-8

Deputies, system and appointment generally as
taxing master or Chancery master on vacancy
45,715-6

all London men - - - 45,807-10, 45,818-20
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all Recent appointments solicitors - 45,708-10
Retirement, no age limit for, and not advocated
45,781-5

Solicitor's experience most valuable on the whole,
but one or two members of the Bar useful
45,712-3

Uniformity of work between different masters,
steps taken to secure - - - 45,830-1

Work, method of distributing between masters
45,704-6, 45,720-4

TAXING OFFICE OF THE SUPREME COURT:

Amount of costs taxed, decrease owing to war
45,701-3

Clerks:

Appointment:

average Age - - - - 45,733-4

Method and success of - - - 45,725-32

Attaching of two clerks to each master necessary
45,771-4

Attendance-book - - - - 45,798-9

previous Experience in solicitor's office considered
essential, and all men recently appointed have
had - - - - 45,735-9

First class, not eligible for appointment as
masters, and not advocated 45,776-9, 45,821-8

High standard of ability and capacity 45,732,
45,738

Hours, and work frequently taken home 45,796-7

Junior, work of, and responsibility 45,751-2,
45,815

all London men - - - - 45,808-10

Number - - - - 45,720

Organisation - - - - 45,742-50, 45,811-4

Principal:

having Served 11 years as second class should
be entitled to promotion to first class
45,766-70

Work of - - - - 45,753-5

Promotion, method - - - 45,740-2, 45,762-5

Retirement, age limit not advocated - 45,786-8

Salaries, initial, no change considered necessary
45,816-7

Third class, having served 11 years as, should
be entitled to promotion to second class
45,770, 45,787-8

no Delay in work - - - - 45,792-4

Formation, 1902, amalgamation of work formerly
done in separate departments - - - 45,682-3

Hours - - - - 45,795-7

Staff - - - - 45,687

Taxation under Solicitors Acts, explanation 45,829

Taxing bills, particulars re work involved in, and
procedure - - - - 45,751-62

Transfer of Admiralty, Bankruptcy, and Probate
taxation work to, not advocated and reasons
45,802-6

Transfer of Lunacy taxation to, advocated by all
masters, but difference of opinion as regards
other departments - - - - 45,800-6

Total amount of costs taxed, 1902-4, and yearly
average and amount taxed off - - - 45,700-1

Vacation work - - - - 45,789-91

Work of - - - - 45,678-99, 45,766

Bancroft, Mr., Clerk of Assize, reference - 51,469

Bankruptcy:

Course of proceeding in, *Brougham* - - 48,972-91

Decisions in County Court, appeals from, *Brougham*
49,000

Decisions in High Court, appeals from, *Brougham*
49,000

Judge in, amount of sittings in court, *Brougham*
49,004-9

Bankruptcy—continued.

Nature of proceeding before judge in court and in
chambers, *Brougham* - - - - 48,985-91

PETITIONS:

Decrease, *Brougham* - - - - 48,998

Statistics, *Brougham* - - - - 48,995-9

Bankruptcy Division:

CLERKS:

Appointment:

previous Experience and age on, *Brougham*
49,033-4

Method and success, *Brougham* - 49,028-36

Open competition not advocated, nomination
and present qualifying examination preferred,
Hansell - - - - 50,940-4

some Barristers, and have become so since ap-
pointed as clerks, *Hansell* 50,901, 50,904-5,
50,981-3

Commendation of, and up-to-date legal knowledge,
Hansell - - - - 50,894-901

Competency of, and work very well done, *Kentish*
54,340-2

First class:

Increased number advocated, *Brougham*, 49,081-
95, 49,135-6; *Hansell*, 50,963-6; *Cartwright*
54,194-212, 54,211, 54,226

Proportion, and smaller than in other depart-
ments, *Cartwright* - - - - 54,197-203

High educational qualifications desirable, but pre-
sent system considered satisfactory, *Brougham*
49,137-45

Holidays, *Brougham* - - - - 49,114-5

previous Legal experience, advantage of, but not
indispensable, *Brougham* - - - - 49,037-41

Number of different classes, *Brougham* 49,042-4

Petition from, to Commission, supported, *Brougham*
49,095-6

Professional qualifications desirable, but need not
be barristers, *Hansell* - 50,933-5, 50,938-9

Promotion:

Discontent in office re, *Brougham* - 49,155-6

Election according to merit and suitability for
post, *Hansell* - - - - 50,953-60

Service scale, question of, *Brougham* - 49,157-62

System, *Brougham* - - - - 49,097-105

to Registrars:

Duties and importance of, *Brougham* - 49,045-54

Efficiency of, *Goodechild* - - - - 47,490

Promotion from third class clerks not advocated,
Goodechild - - - - 47,491-2

Senior, should be first class clerk, *Cartwright*
54,194, 54,211-2

Work more important than that of other second
class clerks, *Cartwright* - - - 54,204-9

Retirement:

no Fixed age and question of, *Brougham*
49,116-9

Fixed age, no objection to, *Hansell* - 50,945-7

Second class:

Pay:

500l. should be maximum instead of 400l.,
Cartwright - - - - 54,193-5, 54,225

Inadequacy of, considering nature and respon-
sibility of work, *Cartwright* - 54,176-92,
54,222-5

Sitting in court, duties and importance of,
Brougham - 49,082-94, 49,141-3, 49,152

Work, nature of, and responsibility, *Cartwright*
54,181-92 54,204-9, 54,212-21, 54,227-9

Third class:

Attendance-book, *Carr* - - - - 54,263

Holidays, *Carr* - - - - 54,264

Hours, *Carr* - - - - 54,258-63

previous Legal experience one argument for
increased maximum, *Carr* - - - 54,265

Pay, maximum of 250l. instead of 200l. advo-
cated, *Carr* - - - - 54,238-48

Promotion:

to First and second classes, no reason known
against, *Hansell* - - - - 50,936-7

Small prospects of, in future, *Carr* - 54,239-45

Work, comparison with that of clerk to official
solicitor, *Carr* - - - - 54,254

Time book, *Brougham* - - - - 49,130-2

Bankruptcy Division—continued.**CLERKS—continued.****Work:**

- After hours, question as to amount, *Brougham* 49,122-3
 more Difficult than in other offices, *Kentish* 54,341-5

Companies (Winding up) Department, *see that title.*
 Hours, *Brougham* - - - 49,106-8, 49,133-4
 late Hours worked in some cases, *Hansell* 50,968-73

Official receivers, examiners to, capability of, *Goodchild* - - - - - 47,490
 Official shorthand writers, *Hansell* - - 50,926-8

ORDERS:

Drawing of, procedure, *Hansell* - - 50,919-23
 Minutes not drawn by counsel, *Hansell* - 50,919-20
 Organisation satisfactory, *Brougham* 49,080, 49,120-1; *Hansell*, 50,925.

Records, particulars *re*, *Brougham* - - 49,012-23

REGISTRARS:

Appeal from, power of, and numbers, *Brougham* 48,991-3

Appointment:

Method, *Brougham* - - - - 49,024
 under Royal Sign Manual up to 1849, now by Lord Chancellor, *Brougham* - - 48,963-4
 System satisfactory in results and work well done, *Hansell* 50,883-7, 50,890-1, 50,948-52

Attendance in court, but necessity doubted, *Hansell* - - - - - 50,909-21

Barristers best qualified to be, *Hansell* - 50,892-3
 Clerks should not be eligible, *Hansell* - 50,902-4
 in Court, often consulted by judges, *Hansell* 50,914-5

previous Experience, *Brougham* - - 49,026-7
 Number, *Brougham* - - - - 49,001

Retirement:

no Fixed age, and question of, *Brougham* 49,116-9
 no Necessity seen for fixed age, *Hansell* 50,930-2

Senior:**Clerks in department:**

Second class, work important, *Brougham* 49,078-9
 Third class, work of, *Brougham* - 49,055-60
 Clerks under personal control and supervision of, *Brougham* - - - - 49,128-9
 Duties, *Brougham* - - - - 49,010-2
 Number of searches in department of, 1914, and fees taken, *Brougham* - - - 49,011
 no Statutory qualifications, *Brougham* - 49,025

Work:

Changes in character, *Brougham* - 48,966
 Comparison with Companies (Winding-up) Department, *Hansell* - 50,888, 50,964-5
 Importance of, *Hansell* - - - 50,888-9
 Nature of, *Brougham* - 48,970-84, 49,002-3

Scrivenery Department, no typewriting, and question of, *Brougham* - - - 49,064-75, 49,146-52

Shorthand notes, delay experienced in getting transcripts, *Hansell* - - - - 50,925-9

Shorthand writing, *Brougham* - - - 49,060-3

System of administration, *Brougham* - 48,966-9

TAXING OFFICE:**Clerks:**

First class clerk should be appointed to, *Hunt* 54,636-40, 54,643-4

Third class:

Eligible for transfer to other taxing offices, but no case known, *Hunt* - - 54,649-50

Promotion:

to Other branches in department, eligibility for, but case of refusal, *Hunt* - 54,645-7
 to Second class, no opportunities, *Hunt* 54,644

Work of, *Hunt* - - - - 54,641-2

Transfer of work to Central Taxing Office not advocated, and reasons, *Baker*, 45,806; *Brougham*, 49,126-7; *Hansell*, 50,991-3.

Work satisfactorily done, *Brougham* - 49,124-5

Vacation work, *Brougham* - 49,109-13, 49,163-4

BANNEHR, W. J.; BLAKE, H. F., and PORTER, A. W., Clerks in the Supreme Court Taxing Office 54,983-55,125

TAXING MASTERS:**Delegation of work to clerks:**

Extent of, at present, and examples 55,104-7,
 55,114-6, 55,118-21, 55,121-2
 Suggestion *re* extension of, clerks to receive higher pay for - - - 55,104-7

TAXING OFFICE CLERKS:

Appointment, age of - - - - 55,001
 Assigning of certain work to each class of, would be possible, but reduction of staff would not result - - - - 55,100-2
 Attachment to particular masters, possible advantage of change of system - - - 55,110-7
 more Difficult for clerk to tax bills than for masters - - - - 55,108-9
 Higher classes, proportion lower than in other offices - - - - 55,006-12
 Holidays, and comparison with solicitor's office 55,002-3

Hours, shorter than in solicitor's office - 55,002

Order of Lord Chancellor and Treasury in 1881, and alteration of classification since, without alteration of duties - - - 55,079-94

Pay, comparison with solicitor's office - 55,004-5

Principal, all should be first class clerks 54,998, 55,079-96, 55,101

Second class, length of service of man at top of 55,028

Sitting master's clerk, work now performed by third class clerk, and claim to higher position 55,074-6, 55,087-91, 55,091-2, 55,095

Third class:

Checking of bills, work cannot be done in office hours - - - - 55,063-73
 previous Legal experience - - - 55,001
 Pay, claim to higher scale - - - 55,077
 Promotion, prospects and rate of, and comparison with other offices - 55,006-27, 55,030
 Restoration to position of second class, claim to 54,998, 55,079-99, 55,101
 Work of, nature and importance - 55,030-76

BARNES, THOMAS, chief clerk, Companies (Winding up) Department (in attendance) - 49,168-49,394

Barnes, Mr., temporary second class clerk, Chancery Registrars Office, reference - - - 41,924-5

Barristers, admission of clerks as, *see under* Clerks.

Barristers' clerks, competency of, and avenues of employment should be opened to, *Wrenbury* 54,920-8

BAYFORD, ROBERT FREDERIC, barrister

48,099-223

DISTRICT PROBATE REGISTRIES:

Created by Act of 1857 - - - - 48,173
 Work apparently done reasonably well - 48,105
 Divorce, Probate, and Admiralty, barristers pleading before courts specialise - - - 48,174-5

PRINCIPAL PROBATE REGISTRY:**Clerks:**

Appointment as district registrars, system approved - - - - 48,144-8

First class, appointment by promotion, system and success - - - - 48,185-203

previous Legal experience not necessary, 48,117-8

Number - - - - 48,195

Promotion:

from Second to first class, system 48,131-42, 48,222-3

Slow rate, complaints heard of 48,132, 48,168-9

from Third to second class, system and success - 48,130, 48,188-203, 48,222-3

Salaries, and generally suitable except in case of clerks to registrars 48,180-1, 48,126

Third class:

Appointment, present system satisfactory and open competition not advocated 48,119-25, 48,204-6, 48,215-20

Class of men not considered too good for work - - - - 48,170-2

Work well done - - - - 48,114-6

Clerks to registrars, salaries not considered adequate owing to importance of posts 48,126-9

History of - - - - 48,173

BAYFORD, ROBERT FREDERIC—continued.**PRINCIPAL PROBATE REGISTRY—continued.**

Orders, drawing up of, method, and system of having minutes drawn by parties might be extended	- - - - -	48,156-66
Organisation satisfactory as a whole, judging by results	- - - - -	48,154-5
Personal Application Department, no difficulty known to be experienced by persons going to Registrars :	- - - - -	48,212-4
Appointment, system good	- - - - -	48,107
Appointment of district registrars as, experience no disqualification but particular value doubted	- - - - -	48,149-50
Retirement, age limit suggested with power to President to extend	- - - - -	48,107-13, 48,182-4
Senior, appointment by selection instead of seniority, no advantage seen	- - - - -	48,207-10
Taxing work, transfer to Central Taxing Office not advocated	- - - - -	48,151-3
Work done satisfactorily on the whole	- - - - -	48,106, 48,221
Biddle, Mr., first class clerk, reference	- - - - -	50,265-8

Bill Chamber :**CLERKS :**

Appointment, method, <i>Paterson</i> ,	57,555, 57,564-6
Assistant Clerk of the Bills :	
Higher, qualifications required than in other offices, and qualified law agent desirable, <i>Salvesen</i>	- - - - - 58,947-8
Law agent's qualification, or equivalent, should be insisted on, in new appointments, <i>Paterson</i>	- - - - - 57,567-8
Previous posts, <i>Paterson</i>	- - - - - 57,558
Salary, <i>Paterson</i>	- - - - - 57,569
Ordinary Clerk of the Bill Chamber :	
Law agent's qualification or equivalent should be insisted on, in new appointments, <i>Paterson</i>	- - - - - 57,567-8
Possibility of promotion to Assistant Clerkship of Session, <i>Paterson</i>	- - - - - 57,669-74
Previous posts, &c., <i>Paterson</i>	- - - - - 57,559-63
Salary and work, and comparison with Assistant Clerk of Session, <i>Paterson</i>	57,569, 57,672-6
Particulars, <i>Paterson</i>	- - - - - 57,547
Principal Clerk, <i>see that title below.</i>	
Recommendations of Committee of 1911 <i>re</i> salaries of, carried out, <i>Adam</i>	- - - - - 56,197
Satisfactory men obtained, <i>Paterson</i>	- - - - - 57,687
Sufficiency of staff, <i>Paterson</i>	- - - - - 57,660
Disciplinary control, <i>Adam</i> , 55,963, 56,055; <i>Paterson</i>	57,570-82, 57,616-7

HOURS :

Extension to 5 p.m. under consideration, but work all done by 4, <i>Adam</i>	- - - - - 56,097
Recommendation of Lord Salvesen's Committee not carried out, question of reason, &c., but matter believed to be under consideration, <i>Paterson</i>	- - - - - 57,549-52

INCLUSION IN CONSOLIDATED SERVICE WITH COURT OF SESSION :

would be Approved, and extent to which possible, <i>Paterson</i>	- - - - - 57,584-94, 57,626-31
Impossibility of, <i>Dunedin</i> , 55,416-7; <i>Salvesen</i> , 59,087; <i>Scott-Dickson</i> , 60,387-8.	
Suggestion, <i>Mackenzie</i>	- - - - - 56,482-4, 56,609-13
Organisation satisfactory, <i>Paterson</i>	- - - - - 57,583
Pensions, officers entitled and not entitled to, <i>Adam</i> , 55,997; <i>Paterson</i> , 57,556-7.	
Preparation and issue of extracts by, explanation, &c., <i>Paterson</i>	- - - - - 57,539-44

PRINCIPAL CLERK :

Abolition of post, and carrying out of work by Principal Clerk of Session, proposal not considered feasible, <i>Paterson</i>	- - - - - 57,618-9
Appointment :	
Method, <i>Paterson</i>	- - - - - 57,553-4
from Outside :	
Advantageous, <i>Jameson</i>	- - - - - 58,182-3
Approved, but definite rule not advocated, <i>Paterson</i>	- - - - - 57,625, 57,661-3
Experience as practising solicitor desirable, <i>Paterson</i>	- - - - - 57,620-4
no Prescribed hours, <i>Paterson</i>	- - - - - 57,664-8
Responsibility of, <i>Paterson</i>	- - - - - 57,677-86

Bill Chamber :—continued.

Removal of registry, &c., work from, not necessary, <i>Paterson</i>	- - - - - 57,643-7
RETIREMENT :	
Age for, 70, <i>Paterson</i>	- - - - - 57,607-9
Civil Service rule not advocated, <i>Paterson</i>	- - - - - 57,610-1
Salaries, extent to which recommendations of Lord Salvesen's Committee carried out, <i>Paterson</i>	57,548
Transfer between Extractor's Department and Court of Session should be possible to some extent, <i>Lewis</i>	59,474-6, 59,529
Vacation judge, <i>Adam</i>	- - - - - 56,258-9
WORK :	
Continues all the year round, <i>Paterson</i>	- - - - - 57,612-5
Nature of, <i>Adam</i> , 55,959-62; <i>Paterson</i> ,	57,537-8, 57,545-6
Birmingham County Court, <i>see under</i> County Courts.	

BISSET, CHRISTOPHER JOHNSTON, Sheriff
Clerk of Forfarshire, and representative of the Association of Sheriff Clerks of Scotland : 56,902-57,320

APPOINTMENT :

Committee to advise on, system would be applicable in Scotland	- - - - - 57,139
Political considerations, general throughout service, and not objected to	- - - - - 57,257-61
Procurators Fiscal, appointment by promotion, in case of recent appointments	- - - - - 57,136

SHERIFF CLERKS :**Appointment :**

no Alteration suggested unless department put on Civil Service basis	- - - - - 57,095, 57,268
Candidates, no lack of	- - - - - 57,026-7
by Lord Advocate, question of alteration, and Committee to advise would be applicable	- - - - - 57,134-9

Method	- - - - - 57,002, 57,094, 57,253-4
from Outside in almost all cases	- - - - - 57,028

Political influences :

Abolition of, no general desire for, heard of, but would not be resented	- - - - - 57,268-72
Recognised as basis of, and example	57,028-33, 57,255-6, 57,209-11

by Promotion might be possible in future, and probability of	- - - - - 57,127-33, 57,136
from Qualified law agents advocated	- - - - - 57,035

Carrying out of work almost entirely by deputies : Discovery of, by superior authority, question of	- - - - - 57,240-7
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probably Exceptional cases, where office held under old system, and in part-time appointments	- - - - - 57,081, 57,240
in Some cases	- - - - - 56,582

Custody of fees and consignations	- - - - - 56,981-6
Deputies, number holding other appointments and carrying on separate business	- - - - - 57,152-6

Dundee, staff	- - - - - 57,060-4
Duties	- - - - - 56,928-35, 56,943-6
Number	- - - - - 56,926

Number, reduction :

must be Gradual, and men having office at present should have first claim to any vacancies	- - - - - 57,092-3
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Whole-timers only, and would be approved	- - - - - 57,082-91
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Offices :

doing of Private business in, would be matter for arrangement with Court-house Commissioners	- - - - - 57,315-6
Provided by Government	- - - - - 57,310-4
not Pensionable and no fixed age for retirement	- - - - - 57,065-7

Personal attendance during office hours in larger counties	- - - - - 57,077-81
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Private practice and holding of other appointments : Permitted in some cases	- - - - - 57,069-76
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Prohibition of, would be approved if salary made sufficient	- - - - - 57,082, 57,248-52
Right to, of present men, should not be interfered with	- - - - - 57,179

Promotion between clerkships :

System of, desirable, but some present men would not care to move	- - - - - 57,022-5
no System of, and cases rare	- - - - - 57,020-1

BISSET, CHRISTOPHER JOHNSTON—*continued.*SHERIFF CLERKS—*continued.*

Qualifications in practice, and solicitors considered more suitable than clerk in office - 57,006-16
 no statutory Qualifications - - - 57,005
 Recommendations in report and evidence of Lord Salvesen's Committee, non-carrying out of - 57,262-5

Responsibility for acts of staff:
 should not Continue if method of appointment, &c., changed - - - 57,161, 57,169-70
 Extent of, and cases - - - 57,162-8
 Fidelity guarantee or insurance, not common - 57,170

Retirement:

at Fixed age, should not be compulsory on present men, and suggestion *re* - 57,179-84
 at 70, paragraph in commissions *re*, and condition not known of, when appointment accepted - 57,067-8

Size of districts of, and salaries, great variations in, - 57,018-9

Staff:

Appointment:

of Junior clerks direct from school with no definite prospect of promotion - 57,051-4
 by Sheriff Clerk - - - 56,954, 57,002
 Apprenticeship with Sheriff Clerk, should be equivalent to apprenticeship with law agent, for enabling apprentice to go up for Law Agents examination - - - 57,157-60
 Civil Service basis advocated - 57,185, 57,202-5
 good Class obtained, but proposed scheme might improve - - - 57,288-90
 Discipline and control should be dealt with by Sheriff Clerk, with appeal to Committee and Lord Advocate or Secretary for Scotland - 57,161, 57,171-3

Dismissal:

Case of - - - - 57,039-41
 Power of, possessed by Sheriff Clerk - 56,955
 Distribution of work between, and example of in Forfarshire - - 56,957-80, 56,987-57,001
 generally Familiar with all branches of work in office - - - - 57,300-3

Juniors:

Difficulty of obtaining, owing to uncertainty of prospects - - - - 57,058-9
 Leaving for other employment - 57,055-7
 Legal knowledge desirable - - - 57,304
 Lump sum for, system - 56,949-53, 56,956, 57,216-23

not Pensionable, and no fixed age for retirement - 57,065-7

Reappointment by incoming Sheriff Clerk invariably - - - - 57,038-9

Salaries:

Comparison with lawyers' offices - 57,317-20
 Fixing of, question as to method - 57,291-6
 Lowness of, and reasons - 57,212-5, 57,286-7
 proposed Scheme will result in increased cost - 57,297-9

Single service:

Appointment:

Entrance examination under Regulations for admission of Law Agents, or leaving certificates suggested as qualification - 57,117-22, 57,130, 57,186-91
 from Existing staff at first and then from non-established staff advocated - 57,107-27
 to Higher posts:
 from Outside, should be possible if no member of staff eligible and with approval of Secretary of State or Lord Advocate - - - - 57,125-6
 by Promotion, would probably be tendency - 57,127-33, 57,136
 Selection should be in hands of Sheriff Clerk - - - - 57,123-4
 would be Approved, and no real difficulty seen - - - - 57,096-8
 Control and promotion by Committee of Sheriff Clerks under presidency of King's Remembrancer, scheme - 57,099-106, 57,192-201

BISSET, CHRISTOPHER JOHNSTON—*continued.*SHERIFF CLERKS—*continued.*Staff—*continued.*Single Service—*continued.*

Established staff should be pensionable - 57,140
 Retirement, fixed age would be necessary, and question of age - - - 57,141-3

would be Whole-time employees only, but certain official appointments might also be held - - - - 57,144-51

Suggestions *re*, summary - - - 57,157-61

Tenure of office - - - - 57,036-7

Transfer between offices, extent - 57,046-50

Vacancies in higher posts, filling of, by promotion or rearrangement of places generally, seldom from outside - - - 57,042-5

Suggestions *re*, summary - - - 57,157

Whole-time:

Difficulty in smaller counties, and reduction in number of Sheriff Clerks would be approved - 57,083-91

Required in recent appointments and important counties - - - - 57,069

Sheriff Clerks of Scotland, Association of, membership, &c. - - - - 56,906-8

SHERIFF COURTS:

Applications for confirmation of appointment of executors, court for, determined by domicile of testator - - - - 56,919-20

Auditor:

Holding of post by Sheriff Clerk Depute, and approval of - - - - 57,144-5

Private work, practice of, and approval, and same accounts would not afterwards be audited in official capacity - - - 57,224-39

Remuneration by fees, work might be included in that for which salary paid, if salary increased - - - - 57,146-51

Consignations, explanation - - - 56,942-8

Forfarshire system - - - - 56,958-80

Jurisdiction - - - - 56,910-5

Recommendations in report and evidence of Lord Salvesen's Committee, non-carrying out of - 57,262-5

Records:

Custody of, &c. - - - - 56,915-8, 57,273-80
 no General Index, but deeds relating to particular county registered in that county - 57,281-5

Register of deeds - - - - 56,936-41

Sheriffs, non-resident except in Edinburgh and Glasgow - - - - 56,922

SHERIFFS SUBSTITUTE:

not Appointed by Sheriff, and work could not be covered by - - - - 57,266-7

Lanarkshire, attachment of clerk to each, and duties of - - - - 56,991-57,001

Number - - - - 56,924-7

Small Debt Courts, jurisdiction - - - 56,914-5

BLAKE, H. F., second class clerk in Taxing Office, *see* BANNER, W. J., &c. - 54,983-55,125

Blaker, Mr., clerk in Chancery Registrars Office, reference - - - - 46,926-9

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COMPANIES (WINDING-UP) DEPARTMENT :

- Registrar, no longer attends in court - 50,206-7
- Works very well, and question of reason for greater efficiency than in other departments
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- Amalgamation with Chancery masters advocated, and no inequality in work anticipated 50,144-83

Clerks :

- Skilled work done by both first class and junior
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Central Office :

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Associates :

- Explanation, *Macdonell* - 45,578-9
- Qualities required, *Kershaw* - 53,262
- Work of, *Kershaw*, 53,261; *Kentish*, 54,286.

Clerks :

- Appointment without previous experience in solicitor's office and success of, *Kershaw*
53,270-3

- Distinction between work of different classes, *Kershaw* - 53,274

- Number, and number in different classes, *Stringer*, 49,615-6; *Kershaw*, 53,268.

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Third class :

- no previous Legal experience, and question as to method of learning work, *Stringer* 49,617-20

- Self-contained body, system would not be applicable, *Kershaw* - 53,275-7

- Vacations and arrangements *re* work in, *Kershaw*
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- Work of, no difficulty in, *Kentish* - 54,432-40

Separation from Central Office :

- Advocated, and scheme, *Kershaw* 53,278-88,
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- Proposal not approved, *Muir Mackenzie* 53,350

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CLERKS :

Appointment :

Age limits :

- 17 or 18 desirable, *Townesend* - 52,367

- 17-25 advocated, *Townesend* 52,332, 52,380-1

- 18-25 suggested, *Stringer* - 49,644

- 20-30, and defect of, *Stringer*, 49,642-3;
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- 20-30, and 20-25 desired, *Macdonell* 45,442,
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Competition :

- not Advocated on the whole, *Stringer*
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- Higher class of man would not be obtained, *Townesend* - 52,365

- Objection to, *J. R. B. Gregory* - 47,257-66

- no Objection seen, *Townesend* 52,350, 52,362-6

- would be Preferred, *Macdonell* - 45,455-60,
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- Head of department should have voice in, *Macdonell* - 45,460-2

- without previous Legal experience, *Leathes*
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- Method, *Macdonell* 45,443-9, 45,453-4, 45,585-6;
Townesend, 52,368-71.

- Professional examination not necessary, *Townesend* - 52,379

- Right class of man obtained, *Kentish* 54,275

- Selection by Committee, suggestion and question of constitution, *Stringer* 49,652-61,
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- Sons of men already in office, *Stringer*
49,784-801, 49,836-8

- System not satisfactory, *Stringer* 49,638-9,
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- to Third class only, and approval of system, *Macdonell* - 45,491-4, 45,588-94

- Vacancies :

- Intimation of, no advantage seen, *Townesend*
52,370

- not Published, *Macdonell* - 45,457

- Disciplinary power, question as to extent of, *Macdonell* - 45,466-73

- Division of work between, question as to extent of, *Macdonell* - 45,495

- previous Experience in case of recent appointments, *Macdonell* - 45,450

First class :

Direct appointment :

- Desirable, *Kentish* - 54,401-5

- Examination would be necessary, *Macdonell*
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- Some managing clerks in solicitors' offices would be good, but would have discouraging effect on second and third classes, and inferior class would come in, *Macdonell*
45,659-63

- Proportion lower than in Chancery Division, *Brocklesby* - 52,273-5, 52,279-80

- Retirement :

- Fixed Age, advantage of, but extension beyond 65 should be possible, *Townesend*
52,310-20, 52,351-4

- Value of long experience, *Townesend* 52,315-9

- Salaries, *Macdonell* - 45,656-8

- Salaries, little comparison possible with clerks in solicitors' offices, *Townesend* 52,333-7, 52,345

- Work and position, comparison with solicitor's managing clerk, but scales of pay should not be determined by pay of, *Stringer* 49,693-707

Hours :

- Comparison with solicitor's office, *Kentish*
54,293-6

- Longer than hours to public, little need for, *Stringer* - 49,770

- Normally, and during vacations, *Macdonell*,
45,518-23; *Stringer*, 49,752-7.

- Work sometimes done after, *Stringer* 49,758-68

- Ineligible for appointment as masters, and barrier should be maintained, *Macdonell* - 45,533-6

- Interchange between departments, *Macdonell*
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- Interchangeability :

- with Associates Department and Crown Office advantageous, and separation of departments not advocated, *Muir Mackenzie* - 55,350

- Difficulties as regards Crown Office and Associates Department, and suggestion, *Kershaw*
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- Leave, method of arranging, *Stringer* 49,732

- Leave, and work during vacations, *Macdonell*
45,509-27, 45,645-51

- previous Legal experience not essential, public school man the class required, *Townesend*
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- Number of different classes in each department, *Stringer* - 49,621-8

- Number and question of suitability of, on the whole, *Macdonell* - 45,496-508

- Pay :

- Comparison with other Government departments, *Stringer* - 49,709-17

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Comparison with clerks in solicitor's office,
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 Extra payments in addition to, in some cases,
Townesend, 52,450-4; *Stringer*, 53,967-72.
 Scales proposed by clerks, approved, *Stringer*
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Probation period instead of veto on appointment
 would be satisfactory, *Macdonell* - 45,574-7
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 case of gross incompetence or neglect of duty,
Macdonell - - - - - 45,463-70

Promotion:

Passing over of men in some cases, *Macdonell*
 45,475-80, 45,485
 small Prospects of, compared with other offices,
Townesend - - - - - 52,332
 Rate of, *Macdonell* - - - - - 45,580
 of Second class, suggestion *re* qualifying exami-
 nation, *Stringer* - - - - - 49,677-86
 to Second class, examination advocated before,
Macdonell - - - - - 45,462, 45,487-8
 System, *Macdonell* - - - - - 45,474-80
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Qualifications required, *Macdonell* - 45,436-41

Retirement:**Fixed age:**

not Advocated, but men might be liable to be
 asked to resign after 65, *Stringer* 49,779-83
 would be Desirable for office, *Brocklesby*,
 52,208-9, 52,322; *Overbury*, 52,323.

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 even over 70, *Macdonell* 45,528-32, 45,595-6

Lump sum on, decrease for every year in ser-
 vice after 65, *Townesend* - - - 52,399

Second class, salaries:

should be Raised, *Townesend* - 52,325-32
 proposed Scale, *Brocklesby* - - 52,269-72
 some Shorthand writers, but shorthand not much
 required, *Macdonell* - - - - - 45,614-7
 Some, still on old scale, *Townesend* - 52,325-32

Third Class:

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Class of man required, *Stringer* 49,646-51, 49,771

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 incapacity, *Stringer* - - - - - 49,854-63

Increments, automatic, but certificate of
 efficiency before, would be approved, *Stringer*
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previous Legal experience not necessary or
 desirable, *Stringer* - - - 49,640-1, 49,645

Promotion:

Decrease in rate, *Townesend* - 52,307
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Qualifying examination, suggestion, *Stringer*,
 49,675-6, 49,776-8; *Townesend*, 52,378,
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 52,251-68

System, and men passed over occasionally,
Stringer - - - - - 49,813-5, 49,864-5

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Worley - - - - - 48,265-76

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Inadequacy of, compared with other depart-
 ments, *Overbury* - 52,222-44, 52,439-49
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 may be obtained, *Macdonell* - 45,581
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Stringer - - - - - 49,740-51, 53,976-80
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Comparison with that of solicitor's managing
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Central Office—continued.**CLERKS—continued.****Work—continued.**

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Four posts at 700*l.* suggested, to be filled by selec-
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MASTERS:

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Relations of, and of assistant masters, to judges,
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Office appliances, question as to further improve-
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Work of, *re* judgments, and difficulty of, *Stringer*
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Question of, and no objection seen personally, provided man has certificate of legal and business capacity as solicitor's clerk, *Romer* 44,888-99

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45,032-4, 44,855-7, 44,861-4, 45,090-2
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System approved, but service in solicitor's office should be essential qualification, *Fox* 47,781-6

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Distinction between work of first and second class, *Oakshott* - - - - - 46,995-6

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First class:

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Higher offices:

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Proportion of, compared with proportion in Central Office, justification for, *Romer* 45,026-31

Hours, *Romer* - - - - - 44,978-80

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Number, difficulties of decreasing, and objection to, *Romer*, 45,023; *Muir Mackenzie*, 55,319-21.

Organisation, *Fox* - - - 47,966-8, 48,044-6

Overlapping of work, extent of, *Romer* - 44,811-6

Promotion:

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Method and functions of sub-committee re, and approval, *Romer* - - 44,915-6, 45,045-7
Rate, comparison with Central Office, reasons, *Romer* - - - - - 45,118-9
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Salaries very ample, *Oakshott* - 47,126, 47,133

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Second and third classes, reduction in number, *Fox* - - - - - 47,856-66

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Separate staff attached to each master, and advantages of arrangement, *Romer* - - 44,927-39
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Third class:

Better class than necessary, *Fox* - 48,055-6
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Inconvenience experienced from insufficient knowledge or training of, *Oakshott* - 46,982-3

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Pooling of work not considered desirable, *Fox* 48,097-8

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Salary considered inadequate by masters, and increase advocated, *Romer* 44,900-8, 45,093-5

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Supervision of, question of, *Fox* - - - 48,044-6, 48,052-4

Work of, *Romer* 44,808-10, 44,870, 44,937-9, App. XCVI.

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Two separate grades, question of, but present system approved, *Muir Mackenzie* - - 55,269-74

Vacancies:

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HOURS:

Extension, certain amount of work could be done without presence of solicitors, *Caunt* - 50,232-4
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STAFF:

Reduction, *Muir Mackenzie* - - - 55,314
more than Sufficient for work, *Oakshott* - 47,010-7, 47,067-8, 47,128-9

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Decrease in, and question as to extent, *Austen-Cartmell*, 47,647; *Muir Mackenzie*, 55,315-7.
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Chancery Department, Scotland:

Abolition of, and merging with another department, under consideration, *Dodds*, 55,618; *MacDougall* 55,713-6

Amalgamation with Extractor's Department not advocated, *MacDougall*, 55,853; *Thomson*, 59,825, 59,827-9

Director of, functions, *Dodds* - - - 55,543

Placing of, under Deputy Clerk Register would be approved, *MacDougall* - - - 55,852-4

Separate office not necessary, part of work might go to Register House and part to Sheriff Clerk in Edinburgh, *Mackenzie* - - - 56,562-4

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Chancery Division, England:**CLERKS:**

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Comparison with work in Central Office, *Brocklesby*, 52,275; *Townesend*, 53,276-8.

Decreased, and possibility of offices being over-staffed, *Winterbotham* - - - 49,980-4

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Well done on the whole, *Winterbotham* - 49,978-9

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"LINKED JUDGES":

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Registrars should be attached to groups of, for drawing up orders, and scheme, *J. R. B. Gregory* 47,233, 47,236-54, 47,333, 47,340-8

Chancery Masters:

Administration actions, nature of work involved in, *Romer* - - - - 44,817-34, 44,843, App. XCVI.

Amalgamation with registrars, see Chancery Offices, amalgamation of.

Amalgamation with taxing masters, suggested, *Caunt* 50,144-83

APPOINTMENT:

Committee to report on qualifications of candidates, proposal approved, *Fox* - - - - 47,788-91

Forty should be minimum age, *Fox* - - - 47,877

Judge should have voice in selection, *Fox*, 47,787-8, 48,003-8

by Judges formerly, and success of, *Romer* 44,981-9, 44,990, 45,050-4

by Lord Chancellor, no change advocated, *Austen-Cartmell* - - - - 47,640-2

Method and system approved, and Committee would not be an improvement, *Romer* 44,837, 44,853, 44,858-60, 45,055-66

from Subordinate officers:

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not Advocated, unless with 10 years' practice as solicitor, *Fox* - - - - 47,749-52

Appointment of one, to Rule Committee suggested, *Stringer*, 49,580-8; *Morton*, 52,695-6.

Assistant masters, question of, *Wrenbury* - - 54,913

Attached to each linked pair of judges, three instead of four, objections to proposal, *Fox* - - 47,819

Attachment to judges, importance of, *Fox* 47,914-5

Attendance in court, in a few cases, but no alteration in practice to extend, necessary, *Austen-Cartmell* 47,660-1

formerly Called chief clerks, *Romer* - - - 44,748-9

Clerks, see under Chancery Chambers.

Debenture holders' actions, nature of work involved in, *Romer* - - - - 44,817-9, App. XCVI.

Distribution of work between, *Romer* - - 44,769-72

Experience, value of, *Fox* - - - 47,891-3, 48,009-16

Foreclosure proceedings, nature of work involved in, *Romer* - - - - 44,817-9, 45,167, App. XCVI.

Hearing of cases:

Average time allotted, *Romer* - - - - 45,140-53

Clerk not present, *Romer* - - - - 45,159-63

Hours, and large amount of work done after 4, *Romer*, 44,776-83, 44,992-9

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NUMBER:

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Decrease might be possible, *Austen-Cartmell* 47,647 not Excessive *Romer*, 45,106; *Fox*, 47,818.

OFFICE:

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Organisation satisfactory, judging by results, *Austen-Cartmell* - - - - 47,670

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Position of, *Romer* - - - - 44,750-4

Present, none were solicitors in provinces, *Romer* 45,122-8

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Seventy too early, 75 early enough, *Fox* 47,881-93

SENIOR:

Appointment by election instead of seniority, suggestion, *Fox* - - - - 47,987-93

Responsibility of, as regards organisation in office, discipline, &c., *Fox* - - - - 47,983-5

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SHORTHAND WRITERS:

Desirable for, and every third class clerk should be, *Fox* - - - - 47,851-3

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SOLICITORS AS:

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Impossibility of masters sitting in court and doing chamber work as well, but special assignment of two officers for present registrar's work would meet difficulty, *Fox* - - - - - 47,924, 47,926-35
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One office, with masters and registrars in close touch, suggested, distribution of work to be left to men themselves, *Wrenbury* - - - - - 54,892-3

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Direct from the Bar and solicitors would be a mistake, *Austen-Cartmell* - - - - - 47,682, 47,693

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Comparison between work of, and that in private offices, &c., *Murray* - - - 57,980, 58,001-6

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First class, number compared with Bankruptcy Department, question of reason, <i>Barnes</i>	49,357-9
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Hours, work often done after, <i>Barnes</i>	49,315-6
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DAVIS, A. E.; LISTER, J. E.; and JONES, R. W., representing the District Probate Clerks Association - - - 53,075-244**DISTRICT PROBATE REGISTRIES:****Agency business:**

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tage - - - - 51,449-61, 51,466-9

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Method and objections to, 51,438-44, 51,517-21

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Amalgamation of District Probate Registries with,
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52,588-90

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- Same areas for Probate and High Court work, but
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Davis - - - - - 53,128-31
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made pensionable without having to pass
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- Sixty suggested, *Morton* - - - - - 52,657
- Salaries:
- Adequate, but system of increments instead of
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- Solicitors' clerks generally, *Simpson* - - - 52,894
- Copies of all wills and grants since 1857 kept at
Somerset House, *Musgrave* - - - 46,255-8
- Copying of wills, typewriting desirable, but applica-
tion not allowed, *Shadwell* - - - 52,866-8
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work therefore sent to London, and uniform scale
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- GRANTS MADE IN, NUMBER:**
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- MANCHESTER:**
- Appointment as District High Court Registrar
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- Combination with High Court Registry, method of
working and hardship, *Mais* - - - 52,584
- Staff, *Mais* - - - - - 52,469-7
- Number, *Musgrave* - - - - - 44,728
- Number, increase, might be advantageous, *Shadwell*
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- Probate agents at smaller places instead of, question
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be suitable, *Musgrave* - - - - - 46,237-50
- READJUSTMENT OF, TO CORRESPOND WITH PRESENT
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- Desirable, and little local criticism anticipated,
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- Question of possible advantage, *Shadwell*, *Alms*,
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- if not Carried on, work would probably be sent
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REGISTRARS—continued.

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Public appointments approved - - - 59,439-41

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HALDANE OF CLOAN, THE RIGHT HON. VISCOUNT

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Retirement, fixed age for, necessary if pensions given, and 70 suggested - - 59,213-5

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Official Solicitor, clerks, opinion *re* claim to pensions, difficulties *re*, and different system of appointment, &c., would be necessary - - 60,583-90

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Appointment, method and statutory qualifications - 59,626, 59,719-21

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Civil Service certificate need not be obtained unless appointment pensionable - 59,752-3

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Position, method of appointment, &c. 59,635,

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Sheriff Clerks, work done by, for Scottish Land Court, and payment by fees - 59,750

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to Messrs. Williamson, Hill, and Co. 54,266-487

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Work more difficult than in other offices 54,341-55

CENTRAL OFFICE:

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Associates Department, no difficulty in work of
clerks - - - - - 54,432-40

Clerks:

Appointment, right class of man obtained
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First class, appointment direct instead of pro-
motion from third class desirable - 54,401-5
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Discipline, &c., appointment of chief clerk to deal
with, advantage doubted - - - 54,393-5

Masters, all barristers, and system should be main-
tained - - - - - 54,270-1

Order Department:

Clerks, previous legal experience desirable, but
work could be learnt in office - - 54,281-4
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work, considered fair - - - - 54,466-75

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Clerk to draw up orders and issue summonses ad-
vocated - - - - - 54,363-75

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54,365-8

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Central Office - - - - - 54,285

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SOLICITORS' OFFICES:

Boys:

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54,462-3

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Given sometimes, but no general practice of
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Hours - - - - - 54,293-6

Managing clerks, appointment to important Gov-
ernment posts of solicitors only, best men
might be excluded - - - - 54,396-400

TAXING MASTERS:

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experience of taxing bills - - - 54,325-6

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commencement of, advocated - - 54,350-6

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TAXING OFFICE:

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First class, appointment direct of solicitor's
managing clerk suggested - - - 54,319

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sary - - - - - 54,443-53

Work well done - - - - - 54,322-3

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VACATIONS:

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commencement of, advocated - - 54,350-6

"Vacation business," scope considered sufficient
54,356

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Number, reduction would be approved - - - 59,509-10

Private practice should be avoided as far as possible - - - 59,505-8, 59,566-8

Staff, promotion:

to Higher posts advocated - - - - - 59,511-2

by Transfer, would be approved - - - 59,513-5

Register House, control by Court of Session should be maintained - - - - - 59,488-9

Register of Sasines, unlimited control by Keeper of, not approved - - - - - 59,489

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Auditing of private accounts by, no great objection to - - - - - 59,577-9

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as Auditor of Court, should be allowed unless in large city, and should be only extra work

59,563-4

Clerks, promotion to higher posts should be possible, and apprenticeship in office should be equal to apprenticeship in law agent's office

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Deputes :

Auditing of private accounts by, no great objection to - - - - -

59,577-9

Private practice, should be avoided as far as possible - - - - -

59,502-4

Qualifications, law agents' examination or equivalent and certain experience advocated

59,492-5

Special class, recommendation of Lord Salvesen's Committee agreed with - - - - -

59,501

Number, reduction, recommendation of Lord Salvesen's Committee agreed with

59,500, 59,560-2

Private practice should be avoided as far as possible, but public appointments should be allowed in some cases -

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Staff, appointment by Lord Advocate, consultation with Sheriff advocated -

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59,490-1

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57,586-91, 57,632-42,

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Ecclesiastical patronage, removal question, but no improvement can be suggested on present system, *Haldane* - - - - -

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Development of, *Haldane* - - - - -

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Improvement question, *Haldane* - - - - -

60,952-4

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Permanent Secretary, further assistance might be necessary for, if duties of Lord Chancellor in connection with legal departments increased, *Heath*

60,479-80

Relief of, of some part of work, no consideration of, known of, *Muir Mackenzie* - - - - -

55,445-7

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50,640-50

Appeal to Lord Chancellor suggested

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50,576-7

Appointment of, by Lord Chancellor suggested

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Appointment year by year suggested -

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50,578

Appointments should be made on own responsibility and direct responsibility to Parliament

not desirable - - - - -

50,566-70, 50,620-9

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50,639

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50,573, 50,579

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50,649-50

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50,566

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50,575,

50,613-5, 50,692-5

Recommendation of Royal Commission *re* Treasury Committee not considered as satisfactory

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to Higher posts, by promotion advocated with discretion to Board to appoint from outside

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Personal solicitation experienced to slight extent in regard to minor appointments -

50,544-5

Political pressure experienced for a time with regard to certain posts, but little now -

50,542-3

50,630

System :

not Approved - - - - -

50,540

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50,540

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50,700-1

Assize clerks, should be appointed by proposed Board

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50,583

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50,608-11

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Retirement, Civil Service rule would be approved

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Second and first classes, experience in solicitor's office useful and desirable but not indispensable

50,674-5

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MACDONELL, SIR JOHN, LL.D., C.B.—*continued.*CENTRAL OFFICE—*continued.*

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Question as to work involved in issue of 45,652-5

Reduction in number of, owing to adoption of
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Crown Office, Master of, duties different from those
of masters in the King's Bench Division, and as
Registrar for Court of Criminal Appeal entirely
distinct - - - 45,541-8Judges of the High Court, appointment of masters as,
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Ineligible for appointment as masters and barrier
should be maintained - - - 45,533-6Work of, and impossibility of further devolution
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and no complaints heard - - 45,323-32

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masters might be possible - - 45,397-9

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certain cases, and should be fixed in each indi-
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apply, but might for future masters 45,379-80

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Committee not carried out - - 45,358-62

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retirement - - - 45,367

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at home - - - 45,309

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45,281-2, 45,288

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Arrangements *re* work during - - 45,413-6Recommendations of Royal Commission on
Delay in the King's Bench Division not yet
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45,635-44

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45,305Master in Chancery, appointment as judge, one case
45,569Masters, hearing of summonses, &c., during vacation
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tors difficult to obtain - - - 45,525

MACDOUGALL, SIR JAMES PATTEN, K.C.B.,

Registrar-General for Scotland, and Deputy Clerk
Register - - - 55,670-921

RECORD OFFICE :

Clerks :

Legal knowledge required - - - 55,693

Scale of pay - - - 55,692

Deputy Keeper of Records :

Appointment, method - - - 55,744

Retirement, Civil Service rule applicable 55,745

Records kept at, nature of - - - 55,674-83

Staff of - - - 55,689-91

Women indexers employed - - - 55,870

Work of - - - 55,684-6, 55,729-32

Work of, and relation to Sasines office system
55,674

REGISTER HOUSE :

Amalgamation of departments, no need for 55,849

Appointments :

Clerks :

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Competition between men with certain legal
qualifications, system and success 55,773-88,
55,889-91

Examination, nature of - - - 55,904-6

by Open competition, and special examination
after training in office, might be advisable,
but change not advocated at present

55,788-93

Vacancies, average number annually 55,794

Crown, number unnecessarily high - 55,752-3

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from Department advocated - - 55,754-5

Headships open to clerks - - 55,900

from Outside :

Consultation of Lord President and Lord
Justice General, suggestion - 55,759-66generally of Men without previous Civil
Service experience - - - 55,754by Secretary for Scotland on recommendation
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55,756-66

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form method desired - 55,751, 55,897-903

Method - - - 55,747-50

Attendance books kept - - - 55,845

Buildings, accommodation, &c. - - 55,859-62

Chancery Department :

Abolition of, and merging with another depart-
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reason seen for - - - 55,853Placing of, under Deputy Clerk Register would
be approved - - - 55,852-4

Work of - - - 55,711-2

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Class much the same as second division clerks
55,892-6

MACDOUGALL, SIR JAMES PATTEN, K.C.B.—*cont.*REGISTER HOUSE—*continued.*Clerks—*continued.*

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Nature of - 55,693, 55,773-5, 55,779-82

Possibility of men having failed in profession entering Register House 55,784, 55,886-8

Nature of work - - - 55,907-14

Deputy Clerk Register:

Appointment, method - - - 55,733

Combination of post with that of Registrar-General of Births, Deaths and Marriages, not satisfactory and separation advocated 55,825-9

Control and supervision by:

Effective - - - 55,872-8

Full, over all other departments advocated 55,830-2

Power *re* - - - 55,717-8, 55,722-8

Post instituted 1806 - - - 55,733

statutory Qualifications - - - 55,737

statutory Qualifications should be retained, and question of extension to include Writers to the Signet - - - 55,767-72

also Registrar-General - - - 55,673

Tenure of office, and clause in warrant of appointment *re* retirement at 70 considered ineffectual - - - 55,733-6, 55,740-3

Work of - - - 55,719-21

Disciplinary control, system and procedure

55,717-8, 55,722-8, 55,833-9

Engrossing Staff:

Appointment, by heads of departments 55,795

Earnings - - - 55,797

Hours - - - 55,797, 55,879

Interchangeable between departments 55,797

Payment by salary, with condition of certain amount of work to be done, question of 55,881-2

Penmanship, deterioration - - - 55,797

Pensioning off of:

would be Feasible - - - 55,810

Scheme prepared formerly - - - 55,801

Unfortunate position of 55,797, 55,810, 55,880, 55,883

Historical Department:

Allowance for publication of calendars, &c.

55,857-8

Curator, appointment, method - - - 55,856

Staff of - - - 55,687-8

Hours, overtime worked and arrangement *re* payment for - - - 55,840-4

Indexing of ancient records, no reason seen against employment of women - - - 55,918-9

Lord Clerk Register, post of, formerly - 55,828

Organisation satisfactory on the whole - 55,825

Pensions, all staff pensionable except engrossing staff - - - 55,846

Photolithography proposed by Lord Low's Committee but opposed by legal bodies and bill not passed - - - 55,799-801

Promotion:

in Hands of Deputy Clerk Register - 55,748

System - - - 55,811-23

Retirement, Civil Service rules applicable except to direct Crown appointments - - - 55,847-8

Staff, interchange between departments provided for, but no great amount of - - - 55,814-6

Typewriting:

Substitution of, for engrossing, desired 55,797,

55,801-8

should be Tried in Register of Deeds first, but

would also be useful in Register of Sasines

55,806-8

Women only for, question of - - - 55,863-9

Work of, and distinction from General Register House - - - 55,672

REGISTER OF DEEDS:

Amalgamation with Register of Sasines, not

advocated - - - 55,850-1

Deeds may be sent to, and copies returned from, by post - - - 55,917

Employment of, question as to extent - 55,705-8

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typists desired - - - 55,710

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Keeper of, appointment, method 55,739, 55,746, 55,755

Procedure, difference from Register of Sasines,

55,701-4

Staff - - - 55,709-10

Typists, women employed - - - 55,797, 55,798

Work of - - - 55,700

REGISTER OF SASINES:

Clerks, nature of work - - - 55,908-14

Deeds may be sent and returned by post 55,915-7

Keeper:

Appointment:

from Department, unless none suitable,

desirable - - - 55,755-8

Method - - - 55,738, 55,855

Tenure of office - - - 55,739

Staff:

Legal and technical knowledge required 55,699

Numbers and pay - - - 55,695-8

Work of - - - 55,694

REGISTRAR-GENERAL OF BIRTHS, DEATHS, AND

MARRIAGES:

Combination of post with that of Deputy Clerk

Register, not satisfactory and separation

advocated - - - 55,825-9

Department:

Office, accommodation - - - 55,861

Promotion, system - - - 55,823-4

Women typists, replacement of men by, experi-

ment - - - 55,919-21

Work, increase of - - - 55,826-8

Sheriff's Courts, records, transfer to Register House

desirable - - - 55,678-9

TYPEWRITING:

Fraudulent alteration, no importance attached to

suggestion - - - 55,803

Use of, extending rapidly in lawyers' offices

55,884-5

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Fiscal of Ayrshire (Ayr District) 57,485-531

PROCURATORS FISCAL:

Assistant, question of - - - 57,520-4

Economies effected by, by improvements on

system of criminal procedure - - - 57,509

Leave of absence:

Hardship owing to lack of provision for, in small

districts, and question of remedy 57,491-500,

57,520-3

Peripatetic Procurators Fiscal, system might be

feasible - - - 57,498-500

Sick leave, suggested provision for - 57,509-12

Pensions:

Economies affected by Procurators Fiscal would

cover extra cost of - 57,509, 57,529-31

Fixed age for retirement would be necessary and

70 suggested as compulsory, 65 as optional

57,505-8

Grievance felt *re* non-carrying out of recommen-dations of Commission of 1871 *re* - 57,489

Inconvenience and hardship from lack of 57,490,

57,513-5, 57,524-8

Taking over of all payments by Government

would remove one difficulty - - - 57,509

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Private practice, restriction:

Difficulty in small districts, and consolidation in

districts suggested - - - 57,516

Necessity greater in small districts - 57,516

Remuneration:

Payment by local authorities, and Government

should take over - - - 57,509

Salaries:

Decrease of, on occurrence of vacancies 57,504

no Increase with length of service, and auto-

matic increase advocated - - - 57,500-4

Work:

Emergent nature of - - - 57,499-500

Increase owing to recent legislation - 57,501

Increase of, without increase of salary or more

provision for help - - - 57,500-3, 57,517-9

MACKENZIE, SIR KENNETH, BART., King's and
Lord Treasurer's Remembrancer, Scotland
56,446-720

APPOINTMENT:

Committee to advise Lord Advocate, advantage
doubted - - - - 56,614-5, 56,648-55
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Chancery Office, separate office not necessary, part of
work might go to Register House and part to
Sheriff Clerk in Edinburgh - - - 56,562-4

COMMISSARY CLERK OF MIDLOTHIAN:

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Justiciary clerks, increases of pay - - 56,659

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Position of, and staff, and duties - 56,708-11
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motion system - - - - 56,467-71
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men suitable - - - - 56,463-6
Method - - - - 56,455-8
by Ordinary Civil Service second division exami-
nation suggested - 56,514-9, 56,692-707
Political considerations naturally enter into
56,460-1, 56,643-7

Auditor:

Private work - - - - 56,714-8
Qualifications required - - - 56,456
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Clerks:

Appointment of Lord Advocate's clerks as 56,459
Depute, fixed age for retirement - 56,637
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cases - - - - 56,467-71
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56,656-8

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Class of men - - - - 56,689-91
Fees to, for witnesses - - - 56,624-31
Offices, closer proximity to Courts would be a con-
venience but difficulty - - - 56,557-61
Organisation satisfactory on the whole as regards
way work done - - - - 56,478-80
Principal Clerk, keeping of own records by
56,657-8

Promotion slow and uncertain - - - 56,472-3

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56,496

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56,603-6, 56,492-3, 56,713
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Scheme - - - - 56,479-93, 56,601-13
free Transfer of men between different branches
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Payment:

by Piecework, effect on length of extracts
56,633-4
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Work of - - - - 56,684

KING'S AND LORD TREASURER'S REMEMBRANCER:

Duties - - - - 56,649-51, 56,619-23
Girls, employment of, to do work of second division
men - - - - 56,664-6

MINOR LEGAL APPOINTMENTS COMMITTEE, RECOM- MENDATIONS:

Carrying out of, would be duty of Scottish Office
56,660-1
Many, not carried out owing to legislation being
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PROCURATORS FISCAL:

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merged in that of Midlothian - - 56,592-3
Experience required - - - - 56,596
not Pensionable - - - - 56,598
Regular service of, desirable, but doubt as to
application of Civil Service conditions 56,596

MACKENZIE, SIR KENNETH, BART.—*continued.*

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nearly All recent appointments have been
56,600

Desirable where enough work to occupy whole
time, but not otherwise - - - 56,600

Record Office, satisfactory flow of promotion
56,474-6

REGISTER OF DEEDS:

Combination with Record Office, suggestion
56,504-5

Deputy Clerk Register should have control over
56,498-501

Engrossing staff, combination with Register of
Sasines, question of - - - 56,546-9

Register of Sasines, satisfactory flow of promotion
56,474-6

REGISTER HOUSE:

Appointment:

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advocated with exception of head of depart-
ments - - - - 56,514-9, 56,694-707

Legal qualifications considered unnecessary,
open competition advocated - - 56,509-20

Clerks, transfer between Registers of Deeds and
Sasines and Record Office, possibility 56,502-3

Deputy Clerk Register, no necessity seen per-
sonally for separation from post of Register-
General - - - - 56,506-8

Engrossing staff:

Holidays and absence of sick leave, hardship *re*
56,552, 56,556

Mutual sick benefit fund - - - 56,553-6

Payment:

by Piecework, retention recommended by
Committee owing to difficulty of devising
better system - - - - 56,521-3

by Salary, with condition of certain amount of
work to be done, question of - 56,532-7

Pensions, contributory scheme might be possible
56,550-1

Sick leave, arrangement desirable - - 56,556

Recording of deeds:

Difficulty *re* engrossers would be solved
56,527

Typewriting:

would Cost less than present system 56,528
no Objection to now, as ink indelible, and
typing into book possible - - 56,529

Pensioning off of engrossers would be possible
56,528

Typists, women:

Clerical work for, during slack season, ques-
tion of - - - - 56,662-82

should be Employed on Civil Service basis, but
question owing to unevenness in amount of
work - - - - 56,530-49

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56,496

Women, employment of, accommodation difficulty
56,682, 56,685-8

SHERIFF CLERKS:

Carrying out of work almost entirely by deputes in
some cases - - - - 56,582

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56,566

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that of Sheriff Clerk of Midlothian - 56,592-3

Reduction in number and whole-time officers only,
would be approved, and promotion throughout
consolidated service would be facilitated
56,567-74, 56,582-3

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McMULLEN, L., and BOURDELOT, H. E., Writers,
Scrivenery Department, Principal Probate Regis-
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PRINCIPAL PROBATE REGISTRY, SCRIVENERY DE- PARTMENT:

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 Writers:
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MUIR MACKENZIE, SIR KENNETH AUGUSTUS, G.C.B., K.C., Permanent Secretary to the Lord Chancellor - 43,891-44,486, 55,249-511, Apps. XCI.-XCIV.

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Second class, promotion of third class clerk to, would not be objected to if a solicitor, *Neish* 50,812

Duties, *Neish* 50,733

Hours, *Neish* 50,758

Lady shorthand typist, work not purely mechanical, *Neish* 50,786-9

Organisation of office and system of appointment satisfactory, *Neish* 50,774-6

Proof reader, employment of, formerly, *Neish* 50,748, 50,804-6

REGISTRAR:

Appointment, method, *Neish* 50,763

Civil Service certificate not held by, *Neish* 50,801

Names of staff and salaries and previous experience, *Neish* 50,743-53

Office held during good behaviour and no age limit, *Neish* 50,761-2

Staff of office, *Neish* 50,741-2

no Statutory qualification, *Neish* 50,777-9

Work of, and staff, *Neish* 50,736-40

Work much the same all the year round, *Neish* 50,756-7

Work, technical legal nature of, *Neish* 50,781-4

Probate Division, appointments in, if by committee, judge should have some voice in, *Muir Mackenzie* 55,483

Probate, Divorce and Admiralty Division:**APPOINTMENTS:**

Transfer to Lord Chancellor, opinion *re* proposal, *Evans* 60,741-5

Selection method, *Evans* 60,749-55

Vacancies, publication not necessary owing to large number of applications, *Evans* 60,749

Barristers pleading before courts specialise, *Bayford* 48,174-5

Clerks, previous legal experience not necessary, *Evans* 60,760-3, 60,825-6

Disciplinary control, *Evans* 60,817-8

no Divorce Registry, work done by officers in Probate Registry, *Muir Mackenzie* 44,342-4

Numbers of staff and salaries, control by Lord Chancellor, *Evans* 60,807-16

REGISTRARS:

Attendance in Court, need for, *Evans* 60,830-5

Retirement, question of fixed age, and 70 might be reasonable, *Evans* 60,801-6

Probate Registry, Principal:

Administrative work, transfer to Inland Revenue Department, no advantage seen and practicability doubted, *Heath* 60,681-6

Probate Registry, Principal—continued.

Attendance-books, *Musgrave*, 44,676-8, 46,422-5;
Collins, Leader, 46,630-45; *Evans*, 60,872-5
 no Business transacted by post, but would be a convenience, and question as to power to change rule,
Evans - - - - - 60,795-9, 60,863-71
 Calendars, method of keeping, and question of card index, *Musgrave* - - - - - 46,467-73

CLERKS:
 Age limits, 20 to 30, and 18 to 30, suggested, *Musgrave* - - - - - 44,560-3

Appointment:
 Direct, to second class:
 no Power for, *Musgrave* - - - - - 46,370-1
 Power might be advantageous, *Evans* 60,822
 without previous Legal experience, *Leathes*
 48,853-4
 Method, *Musgrave*, 44,548-59, 46,499-501;
 Leader, Collins, 46,590-4, 46,693-6.
 by Open competition, objections to proposal, present system satisfactory, *Musgrave*, 44,576-87, 46,511-8; *Bayford*, 48,119-25, 48,204-6, 48,215-20
 Open competition for general Civil Service list, no objection seen in principle but little improvement anticipated, and certain amount of freedom should be left to appointing authority, *Evans* - - - - - 60,751-61, 60,827-9
 Recommendation by committee before nomination by President, not considered necessary, *Musgrave* - - - - - 44,588-90
 to Third class, and promotion to upper classes, opinion *re, Evans* - - - - - 60,819-24
 Appointment to district registrarships, *see under Registrars under District Probate Registries.*
 Appointment of sons of persons employed in registry, *Leathes* - - - - - 48,902-10
 Attendance at office if registrar absent, *Musgrave*
 46,433-5
 social Class, *Musgrave* - - - - - 46,513-4
 Distribution and transfer between departments, *Musgrave* - - - - - 44,599-607
 Higher classes, appointment by promotion and opinion *re, Musgrave*, 44,555, 44,569, 46,369-75; *Bayford*, 48,185-203.
 Holidays, and arrangements during Long Vacation, *Musgrave*, 46,421; *Collins, Leader*
 46,684-9, 46,705
 Hours, *Musgrave*, 46,414-20, 46,436; *Collins, Leader*, 46,680-3, 46,705.
 previous Legal experience:
 considered Desirable, *Worley* - - - - - 48,258-63
 not Necessary, *Bayford* - - - - - 48,117-8
 not all Londoners, *Leader* - - - - - 46,588-9
 Lower division, not rising to higher posts, question of, *Musgrave*, 46,474-9; *Muir Mackenzie*
 55,362-3
 Number, *Collins*, 46,533; *Bayford*, 48,195.
 Numbers of different classes, method of fixing, *Musgrave* - - - - - 46,528-30

Promotion:
 former Copyists not eligible to rise beyond third class, *Musgrave* - - - - - 46,498
 Increments may be stopped if clerk not deserving of, *Musgrave* - - - - - 46,495
 Men passed over sometimes, *Musgrave*, 44,592-6; *Collins*, 46,540-2.
 Slow rate, *Musgrave*, 44,696; *Bayford* 48,132, 48,168-9
 System, *Musgrave*, 44,591-604, 46,368-9, 46,495-8; *Collins*, 46,539-43; *Bayford* 48,130-42, 48,188-203, 48,222-3
 Resignation of young men owing to old men having been persuaded to retire, *Collins, Leader* - - - - - 46,613-9

Retirement, fixed age:
 Application of Civil Service rule:
 would be Approved, but 65 rather early, *Evans*
 60,800-6
 Desired, *Collins*, 46,557-65; *Leader*,
 46,698-701, 46,707-12
 would be Approved subject to certain conditions, *Musgrave* - - - - - 44,689-95
 Number of clerks above 65 at present, *Musgrave*
 44,682-7

Probate Registry, Principal—continued.

CLERKS—continued.

Retirement, fixed age—continued.

Question of, *Musgrave* - - - - - 46,484-91
 at Time at which man entitled to full pension suggested, *Musgrave* - - - - - 44,689-90
 Salaries, increases irrespective of merit, reply to criticism, *Musgrave* - - - - - 46,364-8
 Salaries, and generally suitable, except in case of clerks to registrars, *Bayford* 48,126, 48,180-1
 Selection to be registrars' clerks, *Musgrave*
 46,426-7

Third class:
 Class of men not considered too good for work, *Bayford* - - - - - 48,170-2
 no clear Distinction between work of second class clerks and, in some cases, *Musgrave*
 44,632-7, 46,531
 previous Experience in solicitor's office, question as to value of, *Collins, Leader* - 46,576-85
 ultimate Goal is to be Principal Clerk of Seat, *Collins* - - - - - 46,595-7
 Length of service of men at head of, and ages, *Collins* - - - - - 46,551-4
 Number, *Collins* - - - - - 46,534
 Number at maximum pay, *Collins* - 46,555-6

Promotion:
 Number eligible for, *Collins* - - - 46,536
 Rate, and unevenness of incidence in different years, *Collins* - - - - - 46,544-50
 Qualifications required, *Musgrave* - 44,564-8
 Removal, power of, believed to be only in case of misconduct, *Leader, Collins* - 46,709-10
 Salary, scale, *Collins* - - - - - 46,538
 University and legal qualifications, *Collins*
 46,702-4
 Work of, *Collins* - - - - - 46,646-79

Work:
 Nature of, *Morton* - - - - - 52,631-2
 Well done, *Bayford* - - - - - 48,114-6
 Work of office considered sufficient training, *Musgrave* - - - - - 46,321-5
 Clerks of the Seats, and staff, work of, &c., *Musgrave*
 44,530-6

Contentious work, transfer to Central Office, reasons against, *Musgrave* - - - - - 44,613-27
 Departments of, *Musgrave* - - - - - App. XCV.
 Discipline and control of department, responsibility for, *Musgrave* - - - - - 46,395-413
 Documents of Prerogative Court of Canterbury kept at, *Musgrave* - - - - - 46,259-61
 History of, *Bayford* - - - - - 48,173
 Housekeeper and charwomen, number and pay, *Musgrave* - - - - - 46,338-9

HOURS:
 Certain amount of work done in some departments after 4, *Musgrave* - - - - - 44,662-6
 and Objection of solicitors to longer hours in vacation, *Musgrave* - - - - - 44,642-6
 10-5, objections to, *Musgrave* 44,647, 44,662-6
 Increasing grants made through, number, *Simpson*
 52,900
 Leave, *Musgrave* - - - - - 44,679-80
 Long Vacation, assigning of some annual work to, question as to possibility, *Musgrave* - 46,437-9
 Operations of, in connection with public, *Musgrave*
 44,468-61, 44,667-75
 Orders, drawing of, method and system of having minutes drawn by parties might be extended, *Bayford* - - - - - 48,156-66
 Organisation satisfactory as a whole, judging by results, *Bayford* - - - - - 48,154-5
 Overstaffing question, *Evans* - - - - 60,836-53
 Personal application instead of correspondence, and question as to convenience of system, *Musgrave*
 46,441-66

Personal Application Department, no difficulty known to be experienced by persons going to, *Bayford* - - - - - 48,212-4

REGISTRARS:
 Appointment:
 Direct, *Musgrave* - - - - - 46,493-4
 System good, *Bayford* - - - - - 48,107
 Appointment on Rule Committee suggested, *Stringer*, 49,580-8; *Morton*, 52,695-6.

Probate Registry, Principal—continued.**REGISTRARS—continued.****Clerks:**

should be Admitted to be entitled to second class pay and four additional places in second class provided for, *Musgrave* 44,628-37, 46,363
 Attendance-book not signed by, and reason, *Musgrave* - - - - 46,428
 Salaries not considered adequate owing to importance of posts, *Bayford* - - 48,126-9
 Work of, *Musgrave* - - - - 44,541-5
 Clerks eligible, *Musgrave* - - - - 44,575
 District registrars as, experience no disqualification, but particular value doubted, *Bayford* 48,149-50

Experience as first class clerk one qualification, *Muir Mackenzie* - - - - 44,027
 Necessity for being in court during hearing of cases, *Musgrave* - - - - 46,376-82
 previous Posts, *Musgrave* - - - - 44,570-3
 statutory Qualifications, *Musgrave* - 44,574, 46,492-4

Retirement, age limit suggested, with power to President to extend, *Bayford* - 48,107-13, 48,182-4

Senior:

Appointment by selection instead of seniority, no advantage seen, *Bayford* - - 48,207-10
 Position of, and question of responsibility as regards staff, *Evans* - - - - 60,848-62
 Signing of grants by clerks of Seats instead of by, proposed at one time, but objection to, *Musgrave* 44,638-41
 Work of, *Musgrave* - - - 44,514-5, 44,525-9, 44,537-40, 46,383-94, App. XCV.

SCRIVENERY DEPARTMENT:

Ages of oldest members of examining and copying staffs, length of service, &c., *McMullen* 46,163-71

Appointment, method, *McMullen*, 46,172-5; *Musgrave* - - - - 46,519-21

Average earnings, *Musgrave* - - - 46,308-15
 many Candidates for admission to, generally, *Musgrave* - - - - 46,297-8

Clerks, position of, and opinion *re* pension question, *Musgrave* - - - - 44,723-6

Copying, rates of pay and average weekly earnings, *McMullen*, 46,101-23; *Bourdelot*, 46,178-82

Copyists, difficulty of putting, on salaried basis, according to department, *Bourdelot*, *McMullen* 46,192-7

Establishment, suggested scheme, *McMullen*, 46,156-8; *Bourdelot*, 46,192-5.

Examiners, rate of pay to be increased, *Musgrave* 46,310-1

Examining work, rates of pay, stipulated amount of work, and average weekly earnings, *McMullen* 46,093-100

Female typist:

Paid by salary, and rate of, *Musgrave*, 46,347
 Permanently on staff, *Musgrave* - - 46,337
 Two, and position of, *Bourdelot* - - 46,184-7
 Two, and reasons against employment of larger number, *Musgrave* 44,718-22, 46,340-56

Fixed nucleus of established scriveners, present system preferred, *Musgrave* - - - 46,483

Handwriting work, *McMullen*, 46,115-22; *Bourdelot*, 46,183.

Holidays, *McMullen* - - - - 46,128-32

Hours, *McMullen* - - - - 46,124-9, 46,179

Organisation before 1894, *McMullen* - 46,085-9

Payment by piecework preferred, and reasons, *Musgrave* - - - - 46,291-4

Pensions:

Claim of writers to be made pensionable, *McMullen* - - - - 46,133-6
 Contributory scheme would be considered, *McMullen* - - - - 46,159
 Difficulty *re*, *Heath* - - - - 60,602-8
 Suggestion *re* making clerks pensionable after Civil Service certificate procured and after certain number of years' service, *Musgrave* 46,294-5

Voluntary and contributory system not considered, *McMullen* - - - - 46,154-5
 Staff, number, *McMullen* - - - - 46,083

Probate Registry, Principal—continued.**SCRIVENERY DEPARTMENT—continued.**

Superintendence by second class clerk assisted by third class, and duties of, *McMullen*, 46,141-5; *Musgrave*, 46,521.

Typing:

Comparison of cost with cost of manuscript and with rates in Central Office, *Musgrave*

• 46,201-4, 46,301-4

Increased number of documents might be typed, *Musgrave* - - - - 46,200

Introduction 1894, and reorganisation of staff, *McMullen* - - - - 46,090-2

Work of, &c., particulars *re*, *Musgrave* 44,697-717, 44,727, 46,299-300

Writers:

Appointment to third class clerkships, opportunities, &c., but no financial gain, *McMullen*, 46,146-53; *Bourdelot*, 46,188-9.

Difference between work of, and that of third class clerks, question of, *McMullen* 46,176-7

Permanency of employment, *McMullen* 46,136-9

Rate of pay not higher than in general market, *McMullen* - - - - 46,160-2

always Sufficient work for, *Bourdelot* 46,190-1

Seats department, work of, *Musgrave* - 44,665-75

Sending in of papers to, by Inland Revenue officer, *Musgrave* - - - - 46,238-42

Sittings, *Musgrave* - - - - 44,516-24

STAFF:

Decrease impossible consistently with efficiency, *Musgrave* - - - - 46,362

Increase will soon be necessary, *Musgrave* 46,359-61

TAXING OF BILLS:

Arduousness of work, *Musgrave* - - 46,388-94

Number per year, *Musgrave* 44,619-26, 46,198-9

Transfer of work to Central Taxing Office not advocated, and objection to, *Musgrave*, 44,617-27; *Baker*, 45,804-5; *Bayford*, 48,151-3.

WOMEN, EMPLOYMENT OF:

Question of, *Evans* - - - - 60,876-7

in Storing, registering, and handling wills, no difficulty or objection seen, *Muir Mackenzie* 55,443-4

WORK:

Comparison with that of district registries, *Musgrave* - - - - 46,326-7

Comparison with that of Estate Duty Office, *Musgrave* - - - - 46,333-6

Nature of, *Musgrave* - 44,491-513, App. XCV.

Satisfactorily done on the whole, *Bayford* 48,106, 48,221

Probate Registries, number of estates going through, 1913, *Musgrave* - - - - 44,493-7

Procurators Fiscal:

Amalgamation of districts, *see* Number, reduction of, *below*.

APPOINTMENT:

Committee not advocated, but if created must appoint not only advise, *Anderson* - - 59,941-8

Crown Agent should be consulted, *Lewis* 59,521-3

of Fully qualified law agents generally, *H. H. Brown* - - - - 57,366

not Ideal system, but results satisfactory, *Anderson* 59,935-6

by Lord Advocate, *Dodds* - - - 55,565, 55,605

by Lord Advocate:

Breadth of appointment since, *H. H. Brown* 57,467

Continuance advocated and question as to eliminating political considerations but possibility doubted, *Anderson* - - - 59,949-54

Preferred, *H. H. Brown* - 57,421, 57,433-40, 57,475-84

Sheriff should be consulted, *Lewis* - 59,540, 59,555-6

by Lord President, question of, *Anderson* 59,955-9

Method, *H. H. Brown*, 57,363; *Macnochie*, 58,284

Political considerations may have entered into, in some cases, *H. H. Brown* - - 57,371-3

a Political system, and majority of Council of Society of Law Agents object to, *Anderson* 59,937-40

Procurators Fiscal—continued.**APPOINTMENT—continued.**

by Promotion :

Advocated wherever possible, and proposal *re* keeping of list by Crown Agent, *Horn*

58,799, 58,829–31

would be Approved if with required qualifications, but clerks not likely to have, *H. H. Brown*

57,390–5

Cases, *Bisset*, 57,136; *H. H. Brown*, 57,366, 57,370; *Maconochie*, 58,282–4.

Opinion *re*, *Salvesen* - - - 58,991–2, 59,016–7

Possible without alteration of the law, *H. H. Brown* - - - - - 57,430–2

Preferred whenever possible, but hard and fast rule not advocated, *R. Munro* - - - 60,130–3

from Smaller district in some cases, *H. H. Brown* 57,370

by Promotion and transfer :

Approval of, if suitable, *Fleming* - - - 59,339–40

Difficulty, *Dunedin* - - - - - 58,432–4

Recent appointments, particulars *re*, *R. Munro*

60,125–33, 60,248–9, 60,294–6

Refusal by Crown to appoint Sheriff's nominee sometimes, *Salvesen* - - - - - 58,990

System approved, *Fleming* - - - - - 59,334

Systems, *Dunedin* - - - - - 58,424, 58,430

Assistant, question of, *Mackenna* - - - 57,520–4

Carrying out of prosecutions for local authorities by, question of, *R. Munro* - - - - - 60,290–3

CARRYING OUT OF PROSECUTIONS FOR PARISH COUNCILS, ETC. :

Approved, *R. Munro* - - - - - 60,200–4

and Question of continuance, *Maconochie* 58,377–8

to Some extent, and advocated as part of duties with increased salary, *Scott-Dickson* - 60,442–5

for Special charge, *Sir T. Munro* - - - 60,081

CLERKS :

Acquisition of qualifications as law agent while in office, question as to possibility, *H. H. Brown*

57,452–3

Allowance for :

Absence of Treasury control *re* expenditure, *H. H. Brown*, 57,447–8; *Heath*, 60,670–1

probable Expenditure in case of clerks going to the war; *Heath* - - - - - 60,672–3

no Reason seen for details being given as to expenditure, *Salvesen* - - - - - 59,018–24

System not considered satisfactory, and reference to report of Minor Legal Appointments Committee, *Dodds* - - - - - 55,627–35

Appointment :

Method, *Dodds*, 55,626; *H. H. Brown*, 57,374; *Horn*, 58,761.

Political considerations not involved, *Anderson*

59,960–1

Scheme, *Horn* - - - - - 58,794

Glasgow, special position of, and claim to increased salaries, *Giles* - - - - - 58,841–4

Inadequate salary, facts agreed with in one case, *Salvesen* - - - - - 59,045

Number, question of, *Yeates* - - - - - 58,821–2

Particulars *re*, and arrangement *re* payment, *Dodds* 55,565

Payment system, *Fleming* - - - 59,405, 59,430

Pensions advocated, *H. H. Brown* - - - 57,396

Promotion :

by Committee of Procurators Fiscal, possibility doubted, *Maconochie* - - - - - 58,318–9

to Higher posts advocated, *Lewis* - - - 59,511–2

by Transfer :

would be Approved, *Lewis* - - - 59,513–5

Possible, but rests with Procurator Fiscal, *H. H. Brown* - - - - - 57,416

no Security of tenure, and dismissal should not be possible without consent of Sheriff or Lord Advocate, *Anderson* - - - - - 59,962–70

Combination with office of Sheriff Clerk in small places, possibility doubted, *H. H. Brown*

57,457–61

Contact with Crown Office and Advocates Depute, *H. H. Brown* - - - - - 57,475–82

Conveyancing work, &c., by, for small local authorities, question of, *Sir T. Munro*, 60,084–8, 60,089–94; *Shaw*, 60,088–9, 60,094–5.

Procurators Fiscal—continued.**DEPUTES :**

Acquisition of qualifications as a law agent while in office, question as to possibility *H. H. Brown*

57,451–3

Appointment :

Method and position of, *Horn*, 58,761, 58,808–9; *R. Munro*, 60,208–10.

from Outside, case of, *Giles* - - - 58,801–3

by Selection from clerks advocated wherever possible, and, proposal *re* keeping of list by Crown Agent, *Horn* 58,795–9, 58,810–4,

58,829–31

Civil Service basis :

Claim to, with pensions, *Horn* - - - 58,762–73

Recommendation *re*, *Horn* - - - 58,823–36

Distinction from clerks of Procurators Fiscal, *Horn* - - - - - 58,753–5

Established service, appointment :

by Committee, proposal not approved, *H. H. Brown* - - - - - 57,421

by Lord Advocate with concurrence of Procurator Fiscal advocated, *H. H. Brown* 57,417–21

Fixity of tenure, claim to, but no case of dismissal by new Procurator Fiscal known of, *Horn*

58,762–8

Honorary appointments, *H. H. Brown*, 57,454–6; *Horn*, 58,824.

Number, *Horn* - - - - - 58,819–20

not Pensionable, *H. H. Brown* - - - 57,397

Pensions :

Advocated, *H. H. Brown*, 57,396; *Anderson*

60,012–5

Advocated for all whole-time officials, *Horn*, 58,825–7; *Salvesen*, 58,987–9.

Difficulty *re*, as not whole-timers, *R. Munro*

60,207–10

Private practice question, *Anderson* - - 60,019

Promotion by transfer :

Advocated, *Anderson* - - - - - 59,971–3

Claim to regular system of, and men would be prepared to move, *Horn*, 58,762–3, 58,774–90; *Giles*, 58,838–41.

no Difficulty in way of, *H. H. Brown* - 57,474

Possible, but rests with Procurator Fiscal, *H. H. Brown* - - - - - 57,416

Qualifications :

Law agent advocated, *Anderson* 59,927, 59,932–4

Raising of, suggested, *H. H. Brown*

57,379, 57,394–5

Remuneration system and objection to, and claim to fixing of scales by Treasury and direct payment by Lord Advocate, *Horn* 58,792–3, 58,805–7

Tenure of office, *H. H. Brown* - - - 57,357

Whole-time, number, *H. H. Brown*, 57,358–9; *Horn*

58,837

Disciplinary control by, *Dodds* - - - 55,581

Dismissal, power of, *Dodds* - - - 55,582

Duties, *Dodds*, 55,564; *H. H. Brown*, 57,328–35

few Duties of, statutory, but alteration not advocated, *H. H. Brown* - - - - - 57,428–9

Economies effected by, by improvements on system of criminal procedure, *Mackenna* - - - 57,509

Edinburgh, County of City of, post might be merged in that of Procurator Fiscal of Midlothian, *Mackenzie*

56,592–3

Efficiency of, *H. H. Brown* - - - 57,449–50

Established service and appointment by promotion, younger men would be appointed, *H. H. Brown*

57,414–5

Establishment, possibility of, without extra charge on Exchequer, *H. H. Brown* - - - 57,422–7

Experience required, *Mackenzie* - - - 56,596

History of office, *H. H. Brown* - - - 57,363

not a Law agent in one case, but no objection, *Anderson* - - - - - 59,930

LEAVE OF ABSENCE :

Hardship owing to lack of provision for, in small districts and question of remedy, *Mackenna*

57,520–3, 57,491–500

Peripatetic Procurators Fiscal, system might be feasible, *Mackenna* - - - - - 57,498–500

Sick leave, suggested provision for, *Mackenna*

57,509–12

Sheriff *Maconochie*'s evidence agreed with, *Fleming*

59,332–3

Procurators Fiscal—continued.

Midlothian, staff and work of, and salaries, *H. H. Brown* 57,350-4
 Number, *Dodds*, 55,565; *H. H. Brown*, 57,336-7.
 Number, reduction:
 Advocated, so that whole time should be taken up by official work, with system of *ad hoc* deputies when necessary, *Anderson* - - 59,995-60,003
 would be Approved, *Lewis* - - 59,509-10
 Assistance by highly qualified full-time deputies, scheme, *H. H. Brown* - - 57,379-86
 Proposal not agreed with, and reasons, *Maconochie*, 58,356; *Horn*, 58,791, 58,815-8; *Salvesen*, 58,977, 59,077-82; *Fleming*, 59,335, 59,428-9, 59,436-8
 Offices included in that of, *H. H. Brown* - 57,328
 Offices, part of county buildings, *H. H. Brown* 57,347-8
 not Pensionable, *Mackenzie* - - - 56,598

PENSIONS:

Advocated, *H. H. Brown* - - - 57,396-9
 Advocated for whole-timers, *Salvesen*, 58,985-6; *R. Munro*, 60,205-6.
 Desirable, but less important than for deputies, *Anderson* - - - 60,012-5
 Difficulty owing to cases in which work done for, and paid for by, local authorities, and taking over of, by Exchequer desirable, but difficulty of vested interests of Justices of the Peace Court, *H. H. Brown* - - - 57,400-11
 Economies effected by Procurators Fiscal would cover extra cost of, *Mackenna* 57,509, 57,529-31
 Fixed age for retirement would be necessary and suggestion *re* age, *Mackenna*, 47,505-8; *H. H. Brown*, 57,413-6.
 Grievance felt *re* non-carrying out of recommendations of Commission of 1871 *re*, *Mackenna* 57,489
 Inconvenience and hardship from lack of, *Mackenna* - - 57,490, 57,513-5, 57,524-8
 Taking over of all payments by Government would remove one difficulty, *Mackenna* - 57,509
 Politics not taken part in after appointment, *R. Munro* - - - 60,250-3
 Position compared with that of other offices, *Mackenna* - - - 57,509
 Position of, and relation to Sheriff Court, *Maconochie* 58,268-9

PRIVATE PRACTICE:

Allowed in a few cases, *H. H. Brown* 57,360, 57,362, 57,363
 should be Allowed unless salaries raised, *Maconochie* - - - 58,359-69
 not Allowed with a few exceptions, *Maconochie* 58,357-8

Approved of, where whole-time not occupied by official duties, *Scott-Dickson* 60,377-9, 60,441
 no Objection to, and advantage of, *Salvesen*, 58,977-84, 59,082; *Fleming*, 59,336-8.
 no Objection known to, but should not be allowed where salaries sufficient, *Dunedin* - 58,428-9

Restriction:

Advocated, but difficulty in case of part-time officers, *Anderson* - - 59,991-4, 60,009
 Advocated as far as possible, *Lewis* 59,505-8, 59,566-8
 Desirable, with possible relaxation in very exceptional cases, *R. Munro* - - 60,196-8
 Desirable in larger districts, *H. H. Brown* 57,376

Difficulty in small districts, and consolidation in districts suggested, *Mackenna* - 57,516
 Question as to reason for, *Maconochie* 58,360-2, 58,395-6

Reason, *Dunedin* - - - 58,424-7
 in Recent appointments, *H. H. Brown*, 57,360, 57,363; *R. Munro*, 60,193-5.
 in Small districts, question of, and possibility of amalgamation, *H. H. Brown* - - 57,376-8

Promotion, *Mackenzie* - - - 56,596-9

PROMOTION BY TRANSFER:

Advocated, and would be approved, *H. H. Brown*, 57,387-9; *Salvesen*, 59,077-81; *Anderson* 59,974-5

Carried out regularly, and approval of, *Scott-Dickson* - - - 60,380-2

Prosecution of all statutory and common law offences should be undertaken by, *R. Munro* 60,073, 60,082

Procurators Fiscal—continued.**PUBLIC APPOINTMENTS:**

Allowed in some cases and no inconvenience known, *Maconochie* - - - 58,364-8
 Approval of, *Anderson* - - 59,992-3, 60,030-3
 Inadvisable generally, *R. Munro* - - 60,199
 if made Public appointments pensions should be given, *Dunedin* - - - 58,493
 all Public prosecutions should be at instance of, and payment be made only by Treasury, *Sir T. Munro*, 60,069-70, 60,082-3, 60,095-7; *Shaw*, 60,094, 60,095.

QUALIFICATIONS:

Advocate or law agent advocated, *Anderson* 59,927-31
 Fully qualified law agent with certain number of years' practice advocated, *H. H. Brown* 57,365-9, 57,473
 Law agent desirable, *Maconochie* - - 58,271-5
 Legal knowledge needed, *Maconochie* - 58,270-1
 no Statutory qualifications, *H. H. Brown* 57,364
 Qualities and Qualifications required, *H. H. Brown* 57,441-6
 Regular service of, desirable, but doubt as to application of Civil Service conditions, *Mackenzie* 56,596

REMUNERATION:

Elements of, *H. H. Brown* - - - 57,340-4
 Payment by Counties for perusal of informations on which no proceedings taken:
 Ayrshire, position *re*, *Shaw* - - 60,076-7
 Lanarkshire, refusal of county to make payment to, *Sir T. Munro* - - - 60,067
 Position *re*, *Sir T. Munro*, 60,067-72; *Shaw* 60,076-7

if Taken over by Treasury, compensation:

would only Apply to present holders, *Sir T. Munro* - - - 60,078
 should be Paid on amount to which legally entitled, not on sum settled as compromise, *Shaw* - - - 60,075
 would be Payable to Treasury from county, and need not increase salary of any future Procurator Fiscal, *Sir T. Munro* - 60,079-80

Payment by local authorities for certain class of work, *Sir T. Munro* - - - 60,069
 Payment by local authorities, and Government should take over, *Mackenna* - - 57,509
 Payment should be wholly by salary from Treasury, and should cover any necessary clerical assistance, *Sir T. Munro* - 60,072-4

Salary:

Allowance for provision of clerk to write recognitions included in, in some counties, not in others, *H. H. Brown* - - - 57,349
 Decrease of, on occurrence of vacancies, *Mackenna* 57,504

Fixed on each appointment, *H. H. Brown* 57,338-9

Inclusion of salaries of clerks and office expenses in, and system, *H. H. Brown* 57,345-6, 57,353-4

no Increase with length of service and automatic increase advocated, *Mackenna* - 57,500-4
 very Small in some of smaller districts, *H. H. Brown* - - - 57,361-2

Stationery allowance included in, in some counties, not in others, *H. H. Brown* - 57,349

Responsibility of, *Dodds* - - - 55,601-4

RETIREMENT:

Fixed age would not be objected to, if pensionable *Dunedin* - - - 58,496-7
 at 70, clause:

was Illegal and unfair, *H. H. Brown* - 57,412
 not in Present commissions, *H. H. Brown* 57,412

Tenure of office, *H. H. Brown* - - - 57,355-6

Use of police officers by, and inconvenience of, *Sir T. Munro*, 60,072; *Shaw*, 60,075.

WHOLE-TIMERS:

nearly All recent appointments have been, *Mackenzie* - - - 56,600

Desirable where enough work to occupy whole time, but not otherwise, *Mackenzie* - 56,600

as a Rule, but question considered on vacancy, *Dodds* - - - 55,568

Procurators Fiscal—continued.**WORK:**

Emergent nature of, <i>Mackenna</i>	-	57,499-500
Increase owing to recent legislation, <i>Mackenna</i>		57,501
Increase of, without increase of salary or more provision for help, <i>Mackenna</i>	57,500-3, 57,517-9	

Promotion:

see also under particular departments.

Appointment by, see under Appointment.

from Bottom preferred to division into two grades, <i>Muir Mackenzie</i>	-	-	55,262-74
Clerks should have chance of, <i>Haldane</i>	-	60,918-9	

COMMITTEE FOR:

Proposal not approved, mediocrity might increase as result of, <i>Brickdale</i>	-	51,211-8
Question of advantage or not, <i>Muir Mackenzie</i>		55,264-5

Suggestion, <i>J. R. B. Gregory</i> , 47,394-6; <i>Loreburn</i> , 50,575, 50,613-5, 50,692-5; <i>Wrenbury</i> , 54,866-8; <i>Haldane</i> , 60,927-8.		
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official Committee in each office to advise, recommendation of Royal Commission could also apply to Legal Departments, *Muir Mackenzie* 55,438
some Complaints heard, but generally of personal character, *Muir Mackenzie* - 44,109-11
between Departments possible but not general, *Muir Mackenzie* - 44,113
Direct appointment to higher classes instead of, see under Appointment.

ELIGIBILITY OF CLERKS FOR APPOINTMENT AS MASTERS OR REGISTRARS:

Advocated in case of very exceptional abilities, <i>Haldane</i>	-	60,934
not Advocated, <i>Romer</i> , 44,917-25, 45,107-8; <i>Macdonell</i> , 45,336; <i>Baker</i> , 45,776-9, 45,821-8; <i>J. R. B. Gregory</i> , 47,217-22, 47,354-7; <i>Austen-Cartmell</i> , 47,637-9, 47,669, 47,681-91, 47,699-700; <i>Roscoe</i> , 49,488-901; <i>Hansell</i> , 50,902-4.		
not Advocated unless with 10 years' practice as solicitor, <i>Fox</i>	-	47,749-52
Advocated in case of taxing masters, but not in case of Chancery, <i>Goodchild</i>	47,477-85, 47,489	
Desirable, and bar should be removed, <i>Loreburn</i>		50,669-80
no Objection to, <i>Manson</i> , 49,308-9; <i>Neish</i>		50,777-9, 50,799-800
in Some divisions, <i>Muir Mackenzie</i>		44,027-9, 44,032

Examination before, suggestions, *Macdonell*, 45,462, 45,487-8; *Stringer*, 49,675-80, 49,776-8

TO FIRST CLASS:

more by Selection advocated, and suggestion re consultation of senior clerks re, <i>Townesend</i>		52,355-6, 52,366, 52,382, 52,392-6
by Seniority advocated, with some regard to ability, <i>Caunt</i>	-	50,115-43
Inequality in rate of, in different offices, <i>Muir Mackenzie</i>	-	44,119-22, 44,377-80
men seldom Passed over except in Chancery Division, <i>Muir Mackenzie</i>	-	44,104-5
Passing over of men, <i>Macdonell</i> , 45,475-80, 45,485; <i>Stringer</i> , 49,864-5.		

by Patronage, *Mackenzie* - 56,642-7
draft Regulations, *Muir Mackenzie* - App. XCIV.

BY SELECTION:

Advocated, some consideration being given to seniority, <i>Wrenbury</i>	-	54,880-91
Desirable, <i>Loreburn</i>	-	50,557-8
Difficulty of managing, <i>Muir Mackenzie</i>		55,263
Essential to efficiency, and suggested method, <i>J. R. B. Gregory</i>	-	47,267-78, 47,336-7
Present men would have no legal claim to promotion by seniority, <i>Muir Mackenzie</i>	-	55,370-1

BY SENIORITY:

should be Rule, and selection by special merit the exception, <i>Loreburn</i>	-	50,696
Tempered by selection, suggestion, <i>Haldane</i>		60,922-33
Service scale, question of, <i>Brougham</i>	-	49,157-62
System, <i>Muir Mackenzie</i>	-	44,096-108, 44,381-4
System believed to work satisfactorily, <i>Muir Mackenzie</i>	-	44,109-10

Promotion—continued.**FROM THIRD CLASS CLERKS:**

see also Self-contained class under Third class under Clerks.

Access to highest posts advocated, <i>Loreburn</i>		50,669-72
should be in Exceptional cases only, <i>Goodchild</i>		47,409-13, 47,418
to Higher classes should be possible, but must be on merit, <i>Gregory</i>	47,267-78, 47,336-7, 47,388-93	
by Merit advocated, <i>Oakshott</i>	47,003-9, 47,130-2	
should be in Same department only, <i>Goodchild</i>		47,418, 47,428-31

Rawle, Johnstone & Co.:

Organisation of office, <i>J. R. B. Gregory</i>	47,314-28, 47,382
Pensioning of clerks, <i>J. R. B. Gregory</i>	- 47,380-1
Read, James, former Clerk of Assize, reference	51,473-4

Record Office:**CLERKS:**

Legal knowledge required, <i>MacDougall</i>	-	55,693
Scales of pay, <i>MacDougall</i>	-	55,692
Combination with Register of Deeds, suggestion, <i>Mackenzie</i>	-	56,504-5
Deputy Clerk Register should have control over, <i>Mackenzie</i>	-	56,498-501

DEPUTY KEEPER OF RECORDS:

Appointment, method, <i>MacDougall</i>	-	55,744
Retirement, Civil Service rule applicable, <i>MacDougall</i>	-	55,745
Engrossing staff, rate of pay, <i>Tolmie</i>	-	58,854
Keeper, appointment, method, <i>Dunedin</i>	-	58,441-2
Promotion, satisfactory flow, <i>Mackenzie</i>	-	56,474-6
Records kept at, nature of, <i>MacDougall</i>	-	55,674-83
entirely Separate from Register of Deeds and Register of Sasines, <i>Murray</i>	-	57,911-5
Staff of, <i>MacDougall</i>	-	55,689-91
Well managed, <i>Murray</i>	-	57,928
Women indexers employed, <i>MacDougall</i>	-	55,870-1
Work of, <i>Dodds</i> , 55,539-41; <i>MacDougall</i> , 55,684-6, 55,729-32		
Work of, and relation to Sasines Office system, <i>MacDougall</i>	-	55,674

Register House:

Administration of departments, praise of, <i>Murray</i>		57,992
Amalgamation of departments, no need for, <i>MacDougall</i>	-	55,849

APPOINTMENTS:**Clerks:**

Age limits, <i>MacDougall</i>	-	55,777
by Civil Service second division examination advocated, with exception of head of department, <i>Mackenzie</i>	-	56,514-9, 56,694-707
Competition among men with certain qualifications, system and success, <i>MacDougall</i>		55,773-88, 55,889-91
Examination, nature of, <i>MacDougall</i>		55,904-6
by Open competition, and special examination after training in office, might be advisable, but change not advocated at present, <i>MacDougall</i>		55,788-93
Proportions successful of candidates at open competitions, 1905-14, <i>Leathes</i>		

Apps. CIV., CIV.

Vacancies, average number annually, <i>MacDougall</i>		55,794
Committee to advise Lord Advocate, one man preferred, <i>Murray</i>	-	57,956
Crown, number unnecessarily high, <i>MacDougall</i>		55,752-2

to Higher posts:

from Department advocated, <i>MacDougall</i>		55,754-5
Headships open to clerks, <i>MacDougall</i>		55,900
from Outside:		
Consultation of Lord President and Lord Justice General, suggestion, <i>MacDougall</i>		55,759-66
of Men without previous Civil Service experience generally, <i>MacDougall</i>		55,754
by Secretary for Scotland on recommendation of Deputy Clerk Register advocated, <i>MacDougall</i>		55,756-66

Register House—continued.**APPOINTMENTS—continued.**to Higher posts—*continued.*

Varying methods, no reason seen for, and uniform method desired, *MacDougall* - 55,751, 55,897-903

Legal qualifications considered unnecessary, open competition advocated, *Mackenzie* - 56,509-20

Lord Advocate has no connection with, *R. Munro* 60,182

Method, *Dodds*, 55,613-5, 55,617; *MacDougall* 55,747-50

Political considerations:

Enter into, and system not approved, but good men appointed, *Murray* 57,899-902, 57,937, 57,950-9

Objected to by legal profession, *Murray* 57,954

Results satisfactory as regards way work done, *Murray* - - - 57,903-5, 57,910

Attendance-books kept, *MacDougall* - - 55,845

Buildings, accommodation, &c., *MacDougall* 55,859-62

Chancery Office, *see that title.*

CLERKS:

Class much the same as second division clerks, *MacDougall* - - - 55,892-6

Hours, recommendations of Committee of 1911 *re*, and carried out, *Adam* - - - 56,197

statutory Legal qualifications:
Nature of, *MacDougall*, 55,693, 55,773-5, 55,779-82

Possibility of men having failed in profession entering Register House, *MacDougall*, 55,784, 55,886-8

Nature of work, *MacDougall* - - - 55,907-14

Training of, same system as in judiciary office might be possible but not necessary, *Crole* 56,776

Transfers between Registers of Deeds and Sasines in Record Office, possibility, *Mackenzie* 56,502-3

CONTROL BY COURT OF SESSION:

Maintenance advocated, *Lewis* - - 59,488-9

Opinion *re*, *Dunedin* - - - 58,474-84

Departments of, particulars *re*, *Dodds* - 55,539-44

DEPUTY CLERK REGISTER:

Appointment, method, *MacDougall*, 55,733; *Dunedin* - - - 58,439

Combination of post with that of Registrar-General of Births, Deaths, and Marriages:

not Satisfactory and separation advocated, *MacDougall* - - - 55,825-9

Separate offices for Registrar-General's work of lower rank, under supervision of Deputy Clerk Register, suggestion, *Murray* - 57,857-61

Separation, no necessity seen personally, *Mackenzie* - - - 56,506-8

Control and supervision by:

Effective, *MacDougall* - - - 55,872-8

Full, over all other departments advocated, *MacDougall* - - - 55,830-2

Power *re* superintendence, *MacDougall*, 55,717-8, 55,722-8

over Register of Sasines, *see under* Control and Supervision *under* Register of Sasines.

Placing of Chancery Office under, would be approved, *MacDougall* - - - 55,852-4

Post instituted 1806, *MacDougall* - - 55,733

statutory Qualifications, *MacDougall* - 55,737

statutory Qualifications should be retained, and question of extension to include writers to the Signet, *MacDougall* - - - 55,767-72

Record Office should be controlled by, *Mackenzie* 56,498-501

Register of Deeds should be controlled by, *Mackenzie* - - - 56,498-501

also Registrar-General, *MacDougall* - 55,673

Tenure of office, and clause in warrant of appointment *re* retirement at 70 considered ineffectual, *MacDougall* - - - 55,733-6, 55,740-3

Work of, *MacDougall* - - - 55,719-21

Discipline, &c., administration system, *Dodds* 55,578-80

Disciplinary control, system and procedure, *MacDougall* - - 55,717-8, 55,722-8, 55,833-9

Register House—continued.**ENGROSSING STAFF:**

see also under Register of Deeds and Register of Sasines.

Appointment, by heads of departments, *MacDougall* 55,795

Earnings, *MacDougall* - - - 55,797

Holidays and absence on sick leave, hardship *re*, *Mackenzie* - - - 56,552, 56,556

Hours, *MacDougall* - - - 55,797, 55,879

Interchangeable between departments, *MacDougall* 55,797

Mutual sick benefit fund, *Mackenzie* - 56,553-6

Payment:

by Piecework, retention recommended by Committee owing to difficulty of deciding on better system, *Mackenzie* - - - 56,521-3

by Salary, with condition of certain amount of work to be done, question of, *MacDougall*, 55,881-2; *Mackenzie*, 56,532-7.

Penmanship, deterioration, *MacDougall* 55,797

Pensioning off of:
would be Feasible, *MacDougall* - - 55,810

Scheme prepared formerly, *MacDougall* 55,801

Pensions, contributory scheme, might be possible, *Mackenzie* - - - 56,550-1

Sick leave, arrangement desirable, *Mackenzie* 56,556

Unfortunate position of, *MacDougall* 55,797, 55,810, 55,880, 55,883

Extractor's Department, *see that title.*

Historical Department, *see that title.*

Hornings, inhibitions, adjudications, and entails, registers of, explanation, *Ketchen* - - 56,291-3

Hours, *Murray* - - - 57,990-1

Hours, overtime worked and arrangement *re* payment for, *MacDougall* - - - 55,840-4

Indexing of ancient records, no reason seen against employment of women, *MacDougall* - 55,918-9

Lord Clerk Register, post of, formerly, *MacDougall* 55,828

Lord Clerk Register of Scotland should supervise whole work of, *Murray* - - - 57,883

Organisation satisfactory on the whole, *MacDougall* 55,825

Pensions, all staff pensionable except engrossing staff, *MacDougall* - - - 55,846

PROMOTION:

in Hands of Deputy Clerk Register, *MacDougall* 55,748

System, *MacDougall* - - - 55,811-23

RECORDING OF DEEDS:

Change of method:

Approval of Court of Session would be necessary, *Murray* - - - 57,925, 57,938-9

Difficulty *re* engrossers would be solved, *Mackenzie* - - - 56,527

careful Investigation necessary before, and should be made by Deputy Clerk Register and Court of Session, *Murray* - - 57,941

Legislation would be necessary, *Ketchen*, 56,387-8, 56,404-9

Question as to authority required, *Dunedin* 58,476-8

Question under consideration since 1838, *Ketchen* 55,380

Mechanical method of, would solve difficulties *re* engrossing staff, *Ketchen* - - - 56,386

Photo-lithography:

Proposed by Lord Low's Committee, but opposed by legal bodies and Bill not passed, *MacDougall* 55,799-801

Use of, under consideration by Commission on Conveyancing, *Ketchen* - - - 56,381-4

Printing or photo-zinco-photography, Parliamentary sanction would be necessary, *Murray* 57,940

Typewriting:

Alterations, possibility of, an objection to, *Murray* 57,925-7

Considered, but permanency of record doubted, *Ketchen* - - - 56,385

would Cost less than present system, *Mackenzie* 56,528

no Objection to now, as ink indelible and typing into book possible, *Mackenzie* - - 56,529

Register House—continued.**RECORDING OF DEEDS—continued.****Typewriting—continued.**

Pensioning off of engrossers would be possible.

Mackenzie - - - - - 55,528

Substitution of, desired, *MacDougall* - 55,797,

55,801-8

should be Tried in Register of Deeds first, but

would also be useful in Register of Sasines,

MacDougall - - - - - 55,806-8

Use of, might be possible, but careful considera-

tion necessary before, *Murray* - 57,925-7

Typists, women:

Clerical work for, during slack season, question

of, *Mackenzie* - - - - - 56,662-82

Women should be employed, *Murray* - 57,964

should be Employed on Civil Service basis, but

question, owing to unevenness in amount of

work, *Mackenzie* - - - - - 56,530-49

Only, question of, *MacDougall* - 55,863-9

Women could be employed in copying work,

Murray - - - - - 57,963-6

Zincography, as regards maps and plans, adoption

advocated, *Murray* - - - - - 57,927

Relation to Court of Session, *Dunedin* - 58,440

RETIREMENT:

Age for, *Dodds* - - - - - 55,616

Civil Service rules applicable except to direct

Crown appointments, *MacDougall* - 55,847-8

must be kept Separate from Court of Session, *Mac-*

kenzie - - - - - 56,496

Staff, interchange between departments, provided

for, but no great amount of, *MacDougall* 55,814-6

Transfer of papers between Court and, system and

inconvenience of, *Adam* - - - - - 56,066-71

WOMEN, EMPLOYMENT OF:

see also under Recording of Deeds above.

Accommodation difficulty, *Mackenzie* - 56,682,

56,685-8

would be Suitable for work if legal qualifications

possessed, *Murray* - - - - - 57,966-71

Work of, and distinction from General Register

House, *MacDougall* - - - - - 55,672

Register of Deeds:**AMALGAMATION WITH REGISTER OF SASINES:**

not Advocated, *MacDougall* - - - 55,850-1

Possibility of, and some economies could be

effected, *Ketchen* - - - - - 56,375-9

Question of, *Mackenzie* - - - 56,504, 56,505

no Reason seen for, but would not be impracticable,

Murray - - - - - 57,916-22

Suggestion, *Mackenzie* - - - - - 56,504-5

Deeds may be sent to, and copies returned from, by

post, *MacDougall* - - - - - 55,917

Deputy Clerk Register should have control over,

Mackenzie - - - - - 56,498-501

Employment of, question as to extent, *MacDougall*

55,705-8

ENGROSSING STAFF:

see also under Register House.

Average earnings, *Borthwick, Tolmie* - 58,867-73

Combination with Register of Sasines, question of,

Mackenzie - - - - - 56,546-9

Gratuity on retirement, *Borthwick* - 58,876

Holidays, *Tolmie, Borthwick* - - 58,873

Hours, *Tolmie* - - - - - 58,870-2

Joining of sick society in Sasine Office not allowed,

Borthwick, Tolmie - - - - - 58,886-90

Mutual arrangement to provide for holidays and

sick pay, impossibility, *Tolmie, Borthwick,*

58,861-6

Number, &c., and substitution of typists desired,

MacDougall - - - - - 55,710

Pensions, need for, and contributory scheme would

be accepted, *Tolmie, Borthwick* - 58,874-6,

58,891-5

Rates of pay, *Tolmie, Borthwick* - 58,848-57,

58,882-5, 58,895-6

Sick pay and holiday pay, desired, *Tolmie* 58,860-6

Keeper of, appointment, method, *MacDougall* 55,746,

55,755

Making of record distinct from custody, *Murray*

57,911-5

Procedure, difference from Register of Sasines,

MacDougall - - - - - 55,701-4

Register of Deeds—continued.

Staff, *MacDougall* - - - - - 55,709-10

Typists, women employed, *MacDougall* - 55,797,

55,798

Work of, *Dodds*, 55,543; *MacDougall*, 55,700.

Register of Sasines:

Abridgment formed by Mr. Thomson, *Murray* 57,914

Amalgamation with Register of Deeds, see under

Register of Deeds.

Attendance-book kept, *Ketchen* - - 56,352

Certificates, Government guarantee of accuracy,

Ketchen - - - - - 56,289-90

Civil Service rules re discipline, &c., applicable,

Ketchen - - - - - 56,348

CLERKS:**Appointment:****by Examination:**

not Sufficient test, and selection by Keeper

advocated, and scheme, *Murray* - 57,906,

57,944-9, 57,960-2, 57,972-89

System and nature of examination, and

change, *Ketchen* - - - - - 56,321-3

Keeper of the Register of Sasines should have

larger degree of control in, *Murray* 57,865,

57,870-1

Method, and qualifications required, *Ketchen,*

56,324-8; *Murray*, 57,866-8; *Fisher*

59,267-70

previous Professional knowledge necessary, and

conveyancing clerks would be suitable, *Murray*

57,906-9

right Type of men obtained as a rule, and com-

parison with those appointed formerly without

examination, *Ketchen* - - - 56,330-3

Chief, number and duties, *Ketchen* - 56,300

Comparison with men in law offices not apt,

Harrison - - - - - 59,292-305

Comparison with second division clerks, *Fisher*

59,271-83, 59,304, 59,310-21

Higher posts filled from, with exception of Keeper,

Fisher - - - - - 59,280-3, 59,306-9

previous Legal experience needed, *Ketchen* 56,334,

56,436-45

if made Pensionable and with fixed retiring age,

more consideration would be required in appoint-

ment, *Murray* - - - - - 57,993-8000

Promotion, slow rate anticipated for certain

number of years owing to bringing in of men

from outside about 1899, *Harrison* - 59,284-7,

59,313-6

Qualifications, difficulty re, and regular apprentice-

ship as distinguished from clerkship would have

been preferable, *Ketchen* - 56,329, 56,335-6

Report of Lord Low's Committee quoted re need

for knowledge of conveyancing, *Fisher* 59,266

Second class, claim to special treatment re mini-

imum and maximum salary, *Harrison* 59,288-305

Transfer between Register House departments and,

rare, and filling of vacancies from within office

preferred, *Ketchen* - - - - - 56,417-20

Women, employment would be impossible without

legal training, and Civil Service examination be-

lieved to be barred to, *Ketchen* - 56,421-31

Work, nature of, *MacDougall* - - 55,908-14

CONTROL AND SUPERVISION:**by Deputy Clerk Register:**

Advocated, and communications to Scottish

Office should be referred through, *Mackenzie*

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Depute, pensions advocated except when private
 work allowed - - - - 58,987-9
 Number, reduction not advocated 58,977, 59,077-82
 Part-time and private practice, no objection to, and
 advantage - - - - 58,977-84
 Pensions advocated except when private work
 allowed - - - - 58,985-6
 Promotion between posts approved - 59,077-81

SHERIFF CLERKS:

Appointment:

by Lord President with assistance, suggestion
 59,115-6
 by Promotion, could be in exceptional cases only,
 but then desirable - - - - 59,011-5
 Special class of deposes should be considered for
 promotion - - - - 58,963

Clerks:

Pensions, difficulty - - - - 58,971-2
 Promotion by transfer:
 by Committee of Sheriff Clerks, would prob-
 ably be workable - - - - 58,968-70
 Difficulties - - - - 58,966-7

Deputes:

Appointment, by promotion advocated wherever
 possible - - - - 58,964-5
 Pensions, system of appointment would have to
 be changed - - - - 59,091-4
 proposed Special class, question of number
 58,957-8

Whole-time:

Grievance of - - - - 58,959-61
 Pensions advocated - - - - 58,962
 Number, reduction in, recommendations of Com-
 mittee on Minor Legal Appointments *re*, best
 way of dealing with - - - - 58,911
 Private practice, advantage of - - - - 58,962
 Whole-time, pensions advocated - - - - 58,962
 Women, question of employment of - - - - 59,083-6

SARTORIS, LEONARD, Superintendent of the Royal
 Courts of Justice Staff: - - - - 54,488-574

ROYAL COURTS OF JUSTICE STAFF:

Appointment:

Ages - - - - 54,529-30, 54,558-9
 by Committee, no particular advantage 54,571
 Method - - - - 54,500-6, 54,540-52
 without Regard to waiting list, possibility of,
 54,543-50

Cleaning all done by men - - - - 54,569-70
 Contributory pension fund - 54,521-8, 54,572-4

Female attendants:

Ages - - - - 54,559, 54,562-3
 Appointment, method and class of woman,
 54,551-3
 Duties - - - - 54,560-1
 Pay, &c. - - - - 54,534-5
 not under Pension scheme, but possibility of
 54,554-5, 54,565-6

Number of different classes and pay - 54,495-9
 not Pensionable - - - - 54,513
 Qualifications required - 54,557-60, 54,567-8

Retirement:

Age - - - - 54,514-6
 at 65 or 70, a few hard cases rising from 54,520
 Retiring gratuity - - - - 54,517-9
 ex-Soldiers and sailors, satisfactory, and continu-
 ance of system desirable - - - - 54,531-3
 ex-Soldiers and sailors, &c., numbers, and number
 of pensioners - - - - 54,507-12
 Superintendent, duties - - - - 54,492
 System of appointment and control satisfactory
 54,536-7

Work of - - - - 54,493, 54,538-9
 Sasines Office, *see* Registry of Sasines.
 Scotland, judicial system, summary - - - - 55,516
 Scott, Mr., second class clerk, Bankruptcy Taxing
 Office, reference - - - - 54,645-7

SCOTT-DICKSON, THE RIGHT HON. CHARLES,
K.C., Dean of the Faculty of Advocates:

60,340-469

APPOINTMENT:

Advisory Committee, not advocated - 60,358,
60,392-4

Crown, no need seen for retention of, as regards
minor appointments - - - 60,386-91

by Lord Advocate:

Canvassing, extent of, and question of preventing
60,415-7

Change of system, difficulty of, and retention
advocated - - - 60,356-7, 60,461

Safeguards - - - - 60,357

Open competition, objection to - 60,398-400,
60,412-4

Political considerations:

Attitude of profession as regards - 60,455-6
not Defensible on principle, but successful in
results - - - 60,344-8, 60,463-4

Effect on politics, question of 60,347, 60,395,
60,411, 60,447-54

Elimination, would be an advantage if possible,
60,457-9

by Promotion:

Advocated wherever possible 60,348-50, 60,355,
60,420

Hard and fast rule not advocated - 60,359-60

Practice of, increasing - - 60,348, 60,351

System disregarded in some cases - 60,359

Results of system as regards keeping appointments
within legal profession - - - 60,401-10

COURT OF SESSION:

Clerks:

Acquisition of law agent's qualifications, question
of possibility - - - - 60,432-40

Appointment of Lord Advocate's clerks as:

Capable men appointed - - - 60,352-3

Removal of tradition would be an advantage
if possible - - - - 60,460

Tradition of - - - - 60,354

Offices, transfer to Parliament House or close
proximity, a matter of practical convenience
for agents, advocates not affected by - 60,361-4

Single service, impossibility of - - 60,387-8

Criminal system, private prosecutions allowed, but
small number of - - - - 60,296-7

CROWN AGENT:

Amount of time given to official duties - 60,370

Political office, question of advantage - 60,371-4

Post considered essential - - - 60,365

Crown Office, question of extension to all Govern-
ment civil business - - - - 60,365-9

Lord Advocate, permanent legal secretary, objection
to proposal - - - - 60,467

PROCURATORS FISCAL:

Private practice approved of, where whole time
not occupied by official duties 60,377-9, 60,441

Promotion by transfer, carried out regularly and
approval of - - - - 60,380-2

Prosecuting work done for Parish Councils, &c., to
some extent, and advocated as part of duties
with increased salary - - - 60,442-5

Retirement, fixed age, no reason seen against ordinary
Civil Service rule - - - - 60,384-5

SHERIFF CLERKS:

Promotion of deputies by transfer, carried out
regularly and approval of - - - 60,381-2

Staff:

Establishment question - - - 60,421-3

Promotion by transfer, question of - 60,424-8

Scottish Land Court:

APPOINTMENT:

to Higher posts would be by promotion when pos-
sible, *Kennedy* - 59,643-6, 59,682, 59,740-8

Method, *Dodds*, 55,620; *Kennedy*, 59,624-34,
59,717-21.

Open competition, not advocated, *Kennedy* 59,641-2
no Political considerations involved, *Kennedy*
59,657-8, 59,722

by Secretary for Scotland advised by Committee,
no objection seen to, but not advocated unless
adopted in other departments, *Kennedy* 59,655-6

Selection, method, *Kennedy* - - - 59,659-63

Scottish Land Court—continued.

APPOINTMENT—continued.

System satisfactory, *Kennedy* - - 59,639-40

Vacancies, question of giving public notification,
Kennedy - - - - 59,664-6

ASSISTANT CLERKS:

Acquisition of law agent's qualification while in
office, question as to possibility, *Kennedy*
59,647-54, 59,685-91

Duties, *Kennedy* - - - - 59,614-5, 59,630

Junior, overtime allowance, *Kennedy* - 59,670

Qualifications required, *Kennedy* - - 59,629

Clerk of Accounts, duties, &c., *Kennedy* - 59,618-9

Clerks, interchangeability, *Kennedy* - - 59,674-5

Composition of, and division of work between mem-
bers, *Kennedy* - - - - 59,598-601

Constitution, *Dodds* - - - - 55,549-51

DEPUTE CLERKS:

Number, salaries, and duties, *Kennedy* - 59,609-13

Qualifications required, *Kennedy* 59,627-8, 59,692,
59,743

Discipline, &c., control, *Dodds*, 55,583; *Kennedy*
59,667-8

Draughtsman and Surveyor, duties, *Kennedy* 59,617

Duties, *Dodds* - - - - 55,548

Financing of, *Kennedy* - - - - 59,749-50

Formation of, *Dodds*, 55,547-8; *Kennedy*, 59,591-3.

Grazings Officer, duties, *Kennedy* - - 59,621-2

Hours, *Kennedy* - - - - 59,669-71

KEEPER OF THE ROLLS:

Appointment of man of 61, particulars *re. Kennedy*
59,698-716, 59,751, 59,755-61

Duties, &c., *Kennedy* - - - - 59,620

Members, position and salaries, *Kennedy* - 59,676-81

Pensions, position of staff *re. Kennedy* - 59,635-8

Orders in Council regulating Civil Service apply
generally, *Kennedy* - - - - 59,762-4

PRINCIPAL CLERK AND SECRETARY OF COURT:

Appointment, method, and statutory qualifications,
Kennedy - - - - 59,626, 59,719-21

Duties, *Kennedy* - - - - 59,607-8

Sitting of Court as a whole, *Kennedy* - 59,602-5

STAFF:

Civil Service certificate need not be obtained unless
appointment pensionable, *Kennedy* - 59,752-3

Particulars, *re. Kennedy* - - - - 59,606-7

Salaries, fixing of, *Kennedy* - - - - 59,754

Vacations and arrangement *re. work* during, *Kennedy*
59,672-3

WOMEN TYPISTS:

Position, method of appointment, &c., *Kennedy*
59,635, 59,693-7, 59,723-9

Promotion to assistant clerkships, possibility of,
Kennedy - - - - 59,730-7, 59,739

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Scrivenery Department, Royal Courts of Justice:

BOARD:

Composition, *Stringer* - - - - 53,742

Control of department by, *Stringer* - 53,741-5

Copying, variations in amount of work, *Stringer*
53,839-40

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45,963-9; *Stringer*, 53,863, 53,871, 53,990.

Separate copies of documents, *Stringer* - 53,795-7

Superintendent, work of, *Muir Mackenzie* 55,329-30

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Alteration possible, and consequent objection to,
in law offices, *Stringer* - - - - 53,981-7

Extended use of, question of, *Stringer* - 53,873-91

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Prohibited for certain documents by Committee of
Control, *Stringer* - - - - 53,888-9, 53,891

Women typists:

might be Employed, *Loreburn* - - - 50,709-11

Pay, *Stringer* - - - - 53,760-2

Question of increased employment of 53,890-1,
53,900-8

WOMEN:

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Mackenzie - - - - 44,443, 55,382-6

Question as to increased employment for copy-
ing as well as typing, *Stringer* - 53,900-16

Scrivenery Department, Royal Courts of Justice—
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Work of department in Probate Registry compared with that of, *Musgrave* - - - 46,299-300

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Appointment :

Age on, *Apps* - - - 45,990-1
Method, *Stewart* - - 45,948-9, 46,004-9
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Selection, method, *Stringer* - - 53,747-8
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53,973-5

Appointment to clerkships in some cases, *Apps* 45,954

Average amount of copying per hour, *Stringer*

Civil Service certificates: [53,812-5

Non-obtaining of, owing to refusal of head of department to apply, *Stewart* - 45,837-47
Offer to take examination for, sent to writers by mistake, *Stringer* - - - 53,855-60

Counting of folios by men incapacitated from other work, and payment for, *Stewart*, 46,013-6;
Stringer - - - 53,957-63
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Establishment :

Claim to, *Apps* - 45,904, 45,975-80, 46,061
Work would not be better done, but larger staff would be required and would be more expensive, *Apps* - 45,961-3, 45,970-1, 46,067-8
Examining work and pay, *Stewart, Apps*, 45,929-42;
Stringer 53,767-70.

Gratuity on retirement :

Position under Superannuation Act 1887 as regards, *Stewart, Apps* - - 45,909-19
System and injustice of, and payment on average of whole service advocated, *Stringer* 53,843-54, App, CI.

Holidays, arrangement *re*, and grievance, *Apps* 46,065-6

Hours, *Stringer* - - - 53,793-5, 53,809-10

Hours worked, and question as to number of folios that can be copied per hour, *Stewart, Apps* 45,888-902, 45,905-8, 46,002

Insurance Act as applied to, working of, *Stringer* 53,820-35

Legal knowledge not required, *Stringer* 53,798-803
on different Level from writers working for law stationers, *Apps, Stewart* - - 45,927-31

no Medical inspection, but would be necessary if pension system introduced, *Stringer* 53,749-50
many Men probably anxious to enter department, *Stewart* - - - 45,950-2

Need for experience in law stationer's office, or for men to come into office very young, *Apps*, 45,861;
Stewart - - - 46,865-72, 46,017-21

Numbers, *Apps, Stewart*, 45,833, 45,944; *Stringer* 53,746

Payment by piecework, advantages over salary system, *Stringer* - - - 53,836-42

Pensions :

Advocated, *Stringer* - - - 53,861-4
Claims to be made pensionable, *Stewart, Apps* 45,832, 46,081

Contributory scheme :

would be Approved for future, but pensions advocated for present men, *Stringer* 53,988-92

Treasury proposal :

Better terms obtainable from insurance company, *Stringer* - - 53,865-70
Impossibility of, *Apps* - - 45,921-7
Non-carrying out of, question of reason, *Stringer* - - - 53,866-72
Difficulty *re, Heath* - - - 60,602-8
statutory Position *re, Stewart, Apps* 45,848-52
Whole of past service should be taken into account, *Stewart, Apps* - - 45,985

Scrivenery Department, Royal Courts of Justice—
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Permanency of employment, *Apps, Stewart*, 45,943-7, 45,953-5, 45,981-2, 46,047-8; *Stringer*, 53,751

Position compared with that in law stationer's or solicitor's office, *Stewart* - - 46,031-49

Provident fund, no steps taken to start, *Apps, Stewart* - - - 45,956-60

Qualifications, *Stewart* - - 45,949, 46,017-21

Rates of pay, and average earnings and possible maximum, &c., *Apps, Stewart*, 45,873-87, 45,892, 45,933-42, 46,003, 46,062-3; *Stringer*, 53,763-92.

Salary system :

Graded system would be approved, and could start at less than present average, *Apps* 45,989-99

Lower salary than present earnings would be unfair, *Apps* - - - 45,987, 46,051-7

Scheme formulated by, *re* pensions and pay during holidays, but no results, *Apps* 45,981, 46,076-81

Sickness, arrangement *re* pay during, *Stringer* 53,817-9

Sickness fund, private and voluntary, *Stewart, Apps* 45,920

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Vacations, arrangements, *Stringer* - 53,816

Work of, *Apps* - 45,860-72, 45,903-4, 46,022-30

Work done decreases in quantity with age, but not in quality, *Apps* - - 46,061, 46,070-2

no other Work done during Long Vacation, *Stewart* - - - 46,010-2

Secretary of Scotland, appointment by, *see under* Appointment, Scotland.

SELLAR, HENRY, *see* PAULTON, JAMES MEL-LOR, and SELLAR, HENRY - 50,322-536

SHADWELL, W. H. L., District Probate Registrar, Bodmin, *see* ALMS, EDWARD, &c., 52,732-53,074
Sharp, Mr., former Deputy Paymaster, reference 50,425, 50,431

SHAW, JAMES E., County Clerk of Ayrshire, *see* MUNRO, SIR THOMAS, and SHAW, JAMES E., 60,063-97

Sheriff Clerks :

Allowance to, extent of Treasury control *re* expenditure, *W. Brown* - - - 58,728-9

APPOINTMENT :

no Alteration suggested unless department put on Civil Service basis, *Bisset* - 57,095, 57,268

Candidates, no lack of, *Bisset* - - 57,026-7

Committee :

not Advocated, but if created must appoint, not only advise, *Anderson* - - - 59,941-8

Objections to proposal, *Maconochie* 58,298-304

Consultation of Sheriff *re, Dunedin* - 58,421
from Deputes, no political considerations involved, *Harrison* - - - 59,253-4

not an Ideal system, but results satisfactory, *Anderson* - - - 59,935-6

of Local people always, *Dunedin* - - 58,434-5

by Lord Advocate :

Alteration, question of, and committee to advise would be applicable, *Bisset* - - 57,134-9

Consultation with Sheriff advocated, *Lewis*, 59,517-9, 59,536-40

Continuance advocated, and question as to eliminating political considerations, but doubt as to possibility, *Anderson* - - 59,949-54

Retention advocated, *Andrew* 58,019-30, 58,099

by Lord President, question of, *Anderson* 59,955-9

Method and opinion *re, Dodds*, 55,622-3; *Bisset*, 57,002-4, 57,094, 57,253-4; *Maconochie*, 58,276-8, 58,285; *Dunedin*, 58,443-5.

from Outside in almost all cases, *Bisset* 57,028

Political, *Harrison* - - - 59,165

of Political agents in some cases, *Harrison*, 59,245-52; *Fleming*, 59,412-6.

Political influences :

Abolition of, no general desire for, heard of, but would not be resented, *Bisset* - 57,268-72

Appointments good, and difficulty of change of system, *Andrew* - - 58,022-30, 58,080-2

Extent of, but no bad appointments as result, and opinion *re, Maconochie* - 58,279-82,
58,288-97

Sheriff Clerks—continued.**APPOINTMENT—continued.****Political influences—continued.**

not Ideal, but results satisfactory on the whole,

Fleming - - - - - 59,367-71

Recognised as basis of, and example, *Bisset*,
57,028-33, 57,209-11, 57,255-6

a Political system, and majority of Council of
Society of Law Agents object to, *Anderson*

59,937-40

for Political reasons, tendency to leave work to
depute, *Harrison* - - - - - 59,260

by Promotion:

Desirable as far as possible, and question *re*
qualifications and obtaining of, *Fleming*

59,344-9

could be in Exceptional cases only, but then

desirable, *Salvesen* - - - - - 59,011-5

might be Possible in future, and probability of,
Bisset - - - - - 57,127-33, 57,136

Preferred when possible, *Maconochie* 58,285-90,
58,379-82

from Qualified law agents advocated, *Bisset*
57,034-5

Recent appointments, particulars *re*, *R. Munro*
60,297-303, 60,308-9

Restriction to deputes not advocated, *Fleming*
59,355-6, 59,364-73

Special class of deputes should be considered for
promotion, *Salvesen* - - - - - 58,963

Appointment of staff by, political appointments not
known of, *Harrison* - - - - - 59,259-61

Attendance in courts, approved in spare time,
Maconochie - - - - - 58,322

AS AUDITORS:

not Advocated, *Murray* - - - - - 58,051

should be Allowed unless in large city, and should
be only extra work, *Lewis* - - - - - 59,563-4

Approved in country districts, *Maconochie*
58,374-5

Auditing of private accounts by, no great objection
to, *Lewis* - - - - - 59,577-9

CARRYING OUT WORK ALMOST ENTIRELY BY DEPUTES:

Discovery of, by superior authority, question of,
Bisset - - - - - 57,240-7

probably Exceptional cases where office held under
old system, and in part-time appointments, *Bisset*
57,081, 57,240

in Some cases, *Mackenzie*, 56,582; *Harrison*,
59,260.

of Chancery, duties, *Mackenzie* - - - - - 56,594

CLERKS AND STAFF:

Age of entry, *Harrison* - - - - - 59,140-2

Allowance system, *Bisset* - - - - - 56,949-53, 56,956
57,216-23

Allowance system not considered satisfactory, and
reference to report of Minor Legal Appoint-
ments Committee, *Dodds* - - - - - 55,627-35

Appointment:

by Competition, objection to, *Andrew*, 58,110-4;
Maconochie, 58,400-2.

Direct from school generally, *J. Hamilton*
58,611-3

of Junior clerks direct from school with no defi-
nite prospect of promotion, *Bisset* - 57,051-4

by Lord Advocate, consultation with Sheriff
advocated, *Lewis* - - - - - 59,517-9, 59,536-40

by Lord President with assistance, suggestion,
Salvesen - - - - - 59,115-6

of Lower grades by Sheriff Clerks and deputes
by Sheriffs and Secretary for Scotland sug-
gested, *Harrison* - - - - - 59,175-9, 59,192-202

Method, *Dodds* - - - - - 55,624

Political considerations not involved, *Anderson*
59,960-1

by Sheriff Clerk, *Bisset* - - - - - 56,954, 57,002

Appointment and dismissal should be dealt with
by Committee of Sheriff Clerks Association,
J. Hamilton - - - - - 58,630-6

Apprenticeship with Sheriff Clerk should be equi-
valent to apprenticeship with law agent, for
enabling apprentice to go up for Law Agents'
examination, *Bisset* - - - - - 57,157-60

Civil Service basis advocated, *Bisset* - - - 57,185,
57,202-5

Sheriff Clerks—continued.**CLERKS AND STAFF—continued.**

good Class obtained, but proposed scheme might
improve, *Bisset* - - - - - 57,288-90

Consolidated service, would be advantageous, but
difficulties, *Mackenzie* - - - - - 56,566-75

Debarred from qualifying as law agent by Law
Agents Act 1873, and change advocated, *Andrew*
58,077-9

Difficulty of obtaining and keeping, *Bisset*,
57,055-9; *Crosbie*, 58,654-8, 58,672-8; *J. Hamil-*
ton, 58,613-6; *Harrison*, 59,148-9; *Fleming*,
59,351; *Anderson*, 60,016-7, 60,036

Difficulty of obtaining boys in smaller towns, but
would be avoided if boys could become law ap-
prentices, *Fleming* - - - - - 59,362-3

no Difficulty in obtaining satisfactory recruits,
Andrew - - - - - 58,041

Discipline and control should be dealt with by
Sheriff Clerk with appeal to Committee and
Lord Advocate or Secretary for Scotland, *Bisset*
57,161, 57,171-3

Dismissal:

Approval of some higher power should be re-
quired, *Maconochie* - - - - - 58,397-8

Cases of, *Bisset* - - - - - 57,039-41

Power of, possessed by Sheriff Clerk, *Bisset*
56,955

Distribution of work between, and example of in
Forfarshire, *Bisset* - 56,957-80, 56,987-7001

Establishment question, *Scott-Dickson* 60,421-3
generally Familiar with all branches of work in
office, *Bisset* - - - - - 57,300-3

Glasgow, personal clerks to resident Sheriff Sub-
stitutes, responsibility of work and inadequacy of
pay, *A. Hamilton* - - - - - 58,638-47

Hours, *J. Hamilton*, 58,701, 58,665-6; *Crosbie*,
58,667.

Legal knowledge desirable, *Bisset* - - - 57,304

Official experience more important than legal know-
ledge, *Maconochie* - - - - - 58,260, 58,393

Particulars *re*, *Dodds* - - - - - 55,561-3

Payment:

Strictest control by King's Remembrancer ad-
vocated, *Maconochie* - - - - - 58,331-3

System, *Fleming* - - - - - 59,405-8

not Pensionable and no fixed age for retirement,
Bisset - - - - - 57,065-7

Pensions:

Advocated for whole-timers, *R. Munro* 60,189-90
not Advocated, *Andrew*, 58,065-9, 58,094-7;
Maconochie, 58,335-8.

Advocated for whole staff after few years' ser-
vice at bottom, and could also apply to part-
timers, *Harrison* - - - - - 59,203-12

not Advocated generally, except to few special
senior clerks, *Fleming* - 59,391-3, 59,431

Application of contributory scheme to part-time
officers might be possible, *Mackenzie* 56,575-7

Civil Service scheme advocated, *Harrison*
59,229-35

Clerks might be examined as to health, &c., be-
fore being made pensionable, *Harrison*
59,211-2

Desirable, and reasons, *Anderson* - 60,016-8

Desirable if salaries not increased, *J. Hamilton*
58,695-6

Difficulty, *Salvesen* - - - - - 58,971-2

Promotion, from upward, system suggested, *Murray*
58,054-60

Promotion and transfer:

Advocated with Treasury grant towards cost of
removal, *R. Munro* - - - - - 60,185-6

Clerks would be willing to move, *Crosbie* 58,659

Committee of Sheriff Clerks:

would be Approved, *Anderson* - 59,977-85
no Difficulty seen, and approval of, *Murray*
58,061-4, 58,121

Objection to proposal, *Dunedin*, 58,498-500;
Harrison, 59,180-91.

no Objection seen, *Maconochie*, 58,307-17;
R. Munro, 60,187-8.

would Probably be workable, *Salvesen*
58,968-70

Difficulties, *Salvesen* - - - - - 58,966-7

Sheriff Clerks—continued.

CLERKS AND STAFF—continued.

Promotion and transfer—continued.

- General system of, advocated under Committee of Sheriff Clerks Association, *J. Hamilton* 58,620-37, 58,660-3
- Men should have chance of, without acceptance being compulsory, *Harrison* - - 59,143-9, 59,155-6
- proposed Method of working, *Harrison* 59,160-74, 59,221-6
- Present position and extent of, *Bisset*, 57,046-50; *Andrew*, 58,034-40; *Maconochie*, 58,305-6.
- Prospects of, would improve service and question as to possibility, *Anderson* - - 60,038-43
- Question of, *Scott-Dickson* - - 60,424-8
- Question of, and difficulty of cost of removal, *Fleming* - - 59,351-4, 59,356-61
- Regular system of, question of advantage or not, *Andrew* - - - - 58,042-4
- Want of, *J. Hamilton* - - - - 58,620
- Promotion to higher posts should be possible, and apprenticeship in office should be equal to apprenticeship in law agent's office, *Lewis* 59,496-9, 59,580, 59,520
- Reappointment by incoming Sheriff Clerk invariably, *Bisset* - - - - 57,038-9
- not Represented before Minor Legal Appointments Committee, *J. Hamilton* - - - 58,679-80
- Retirement, fixed age necessary if pensions given and 70 suggested, *Harrison* - - 59,213-5
- Salaries :
- Comparison with law agents' offices, *Bisset*, 57,317-20; *Anderson*, 60,044-5.
- Fixing of, question as to method, *Bisset* 57,291-6
- Inadequacy of, *Bisset*, 57,212-5, 57,286-7; *Harrison*, 59,150-4.
- and Inadequacy of, and comparison with second division clerks, &c., and private offices, *Crosbie*, 58,648-53, 58,683-8; *J. Hamilton*, 58,589-606, 58,617-9, 58,664-5, 58,668-71, 58,681-2, 58,697-700
- proposed Scheme will result in increased cost, *Bisset* - - - - 57,297-9
- no Security of tenure, and dismissal should not be possible without consent of Sheriff or Lord Advocate, *Anderson* - - - - 59,962-70
- Single service:
- Appointment:
- Entrance examination under Regulations for admission of Law Agents or leaving certificates suggested as qualification, *Bisset* 57,117-22, 57,130, 57,186-91
- from Existing staff at first and then from non-established staff advocated, *Bisset* 57,107-27
- to Higher posts:
- from Outside, should be possible if no member of staff eligible and with approval of Secretary of State or Lord Advocate, *Bisset* - - - - 57,125-6
- by Promotion, would probably be tendency, *Bisset* - - - - 57,127-33, 57,136
- Selection should be in hands of Sheriff Clerk, *Bisset* - - - - 57,123-4
- would be Approved, and no real difficulty seen, *Bisset* - - - - 57,096-8
- Control and promotion by Committee of Sheriff Clerks under Presidency of King's Remembrancer, scheme, *Bisset* 57,099-106, 57,192-201
- Established staff should be pensionable, *Bisset* 57,140
- Retirement, fixed age would be necessary, and question of age, *Bisset* - - - 57,141-3
- would be Whole-time employees only, but certain official appointments might also be held, *Bisset* - - - - 57,144-51
- Subordinate, inadequacy of salaries, *Mackenzie* 56,577-81
- Suggestions re, summary, *Bisset* - - 57,157-61
- System, *Maconochie* - - - - 58,332
- System and opinion re, *Dunedin* - - 58,423
- Tenure of office, *Bisset* - - - - 57,036-7
- Training, comparison with training in outside offices, *Andrew* - - - - 58,112

Sheriff Clerks—continued.

CLERKS AND STAFF—continued.

- different Treatment from ordinary law clerks, with right of competition in profession not necessary, *Andrew* - - - - 58,111-4, 58,124-5
- Vacancies in higher posts, filling of, promotion or rearrangement of places, generally, seldom from outside, *Bisset* - - - - 57,042-5
- Varying numbers, &c., in different districts, *Mackenzie* - - - - 56,566
- Work outside office, question as to possibility, *J. Hamilton* - - - - 58,702
- Combination of office of Procurator Fiscal with that of, in small places, possibility doubted, *H. H. Brown* 57,457-61
- Court work only, and not Process Clerks, opinion re recommendations, *Fleming* - - - 59,377-82
- Custody of fees and consignations, *Bisset* 56,981-6
- DEPUTES :
- Appointments:
- by Consultation with Sheriff after consultation with Sheriff Clerk would be approved, and preferred to Committee of Sheriff Clerks, *Andrew* - - - - 58,088-90, 58,106-9
- should be on Nomination of Sheriff or by Secretary for Scotland from Assistant Sheriff Clerks if possible, *Harrison* - - 59,175-9, 59,192-9
- from Outside, cases of, *J. Hamilton*, 58,609-12, 58,691-4; *D. Brown*, 58,709-10, 58,726.
- by Promotion:
- Advocated wherever possible, *Salvesen* 58,964-5
- Desirable as far as possible and question re qualifications and obtaining of, *Fleming* 59,344-9
- Restriction to clerks in office not advocated, *Fleming* - - - - 59,355-6, 59,364-76
- by Sheriff preferred, *Maconochie* - 58,388-9
- by Sheriff after consultation with Sheriff Clerk, no objection seen, and possible advantage, *Anderson* - - - - 60,056-8
- from Staff, and approval of, *Andrew* 58,039-40, 58,054-6
- Appointment as auditors approved and should continue, *Murray* - - - - 58,051
- Auditing of private accounts by, no great objection to, *Lewis* - - - - 59,577-9
- Carrying out of work almost entirely by, see that heading above.
- Dismissal not advocated without right to appeal to Secretary for Scotland, *Andrew* - - 58,087
- Distinction of functions from those of clerks attached to Sheriffs, *Bisset* - - 56,992-7,000
- Duties of, re registration of voters and elections, *Andrew* - - - - 58,083-5
- Improvement of position advocated, *R. Munro* 60,190-1
- Insurance of, *W. Brown* - - - - 58,715-8
- previous Legal experience, importance of, *Andrew* 58,016-8
- Number holding other appointments and carrying on separate business, *Bisset* - - 57,152-6
- Pay inadequate, *Maconochie* - - - - 58,387
- Pensions:
- Advocated, *Anderson* - - - - 60,012-5
- Advocated, and should apply also to part-time offices, *Fleming* - - 59,385-92, 59,409-10
- Advocated for whole-timers, *Maconochie*, 58,407; *Salvesen*, 58,962.
- Question of, *Dunedin* - - - - 58,494-5
- System advocated, and suggestions re, *Andrew* 58,065-75, 58,095-7, 58,103-5, 58,115-6
- System of appointment would have to be changed, *Salvesen* - - - - 59,091-4
- Position of, *Andrew*, 58,091-3; *Maconochie* 58,383-6
- Private practice:
- should not be Allowed where whole time taken up by official work, but difficulty in case of part-timers, and suggestion, *Anderson* - 60,019-21
- should be Avoided as far as possible, *Lewis* 59,502-4
- Restriction of, desirable and practicable, *Murray* 58,052-3
- Promotion of clerks to, desirable, and service as clerks should count towards pension, *Fleming* 59,432-3

Sheriff Clerks—continued.**DEPUTES—continued.****Promotion and transfer :**

Advocated, *Anderson* - - - - 59,974-6

Carried out and approval of, *Scott-Dickson*
60,381-2

Chance of, but acceptance should not be compulsory, *Harrison* - - 59,143-9, 59,155-6

by Committee of Sheriff Clerks would be advantageous, *Anderson* - - - 60,047-8

by Lord Advocate in consultation with Sheriff preferred, *Dunedin* - - - 58,501-3

System desirable and would work satisfactorily, *Murray* - - - - 58,045-6, 58,054

Public appointments approved, *Fleming* 59,439-41

Qualifications :

Law Agents examination or equivalent and certain experience advocated, *Lewis* - 59,492-5

Qualified law agent not advocated as hard and fast rule, *Anderson* - - - 59,924-6

Retirement, fixed age would not be objected to, if pensionable, *Dunedin* - - - 58,496-7

Salaries, memorial *re* fixing of, and increase in Commissary fees handed in, *W. Brown* 58,719-23

proposed Special class, number, question of, *Salvesen* - - - - 58,957-8

Special class :

Recommendation of Lord Salvesen's Committee approved, *W. Brown*, 58,711-3; *Harrison*, 59,159; *Lewis*, 59,501; *R. Munro*, 60,183.

Retirement, fixed age, 70 would be early enough, *Maconochie* - - - - 58,410

Suggestion, *Maconochie* - 58,324-9, 58,335-6
58,407, 58,410

no Statutory qualification, and actual experience in offices of the Court considered more important, *Harrison* - - - - 59,133-9

Tenure :

Fifty desired, *Andrew* - - - 58,086-7

Reappointment or not by new Sheriff Clerk, recommendation *re*, *Fleming* - - 59,350

no Security of, and Sheriff Clerk should not have absolute power of dismissal, *Anderson* 60,053-5

Whole-time, grievance of, *Salvesen* - 58,959-61

Difficulty in obtaining, in country districts, *Maconochie* - - - - 58,265-7

Dundee, staff, *Bisset* - - - - 57,060-4

Duties, &c., *Dodds*, 55,561-3; *Bisset*, 56,928-35, 56,943-6; *Andrew*, 58,083-5.

of Edinburgh, County of City of, post might be merged in that of Sheriff Clerk of Midlothian, *Mackenzie* - - - - 56,592-3

Holding of public appointments, approval of, *Anderson* - - - - 60,030-3

Law agent as, not essential, *Maconochie* - 58,260

previous Legal experience, importance of, and should be qualified law agent, *Andrew* 58,016-7, 58,100-2

Sheriff *Maconochie*'s remarks generally agreed with, *Fleming* - - - - 59,341

MIDLOTHIAN :

Employment of temporary typist, *Harrison* 59,236-40

Staff and organisation of office, *Harrison*
59,125-32, 59,255

Number, *Bisset* - - - - 56,926

NUMBER, REDUCTION :

would be Approved, *Bisset*, 57,082-91; *Murray*
58,047-50

would be Approved, and promotion throughout consolidated service would be facilitated, *Mackenzie* - - - 56,567-74, 56,582-3

must be Gradual, and men having office at present should have first claim to any vacancies, *Bisset*
57,092-3

Recommendation of Lord Salvesen's Committee :

Agreed with, *Maconochie*, 58,320-1; *Dunedin*, 58,467-9; *Salvesen*, 58,911; *Harrison*, 59,157-8;

Lewis, 59,500, 59,560-2; *Anderson*, 59,986-90; *R. Munro*, 60,183-4.

not Agreed with, *Fleming* - - - 59,377-83

Whole time would be occupied by official work, *Maconochie* - - - - 58,322

OFFICES :

doing of Private business in, would be matter for arrangement with Court-house Commissioners, *Bisset* - - - - 57,315-6

Provided by Government, *Bisset* - - 57,310-4

Sheriff Clerks—continued.

peripatetic Official to supervise work of, objection to proposal, *Muir Mackenzie*, 55,398-400; *Maconochie*, 58,370-3; *Dunedin*, 58,465-6.

One head of service, objections to proposal, *Andrew*
58,118-20

Oppressive treatment of staff by, in a few cases, *Harrison* - - - - 59,241-4, 59,257-8

Organisation of offices satisfactory, *Andrew* 58,076

not Pensionable, and no fixed age for retirement, *Bisset* - - - - 57,065-7

PENSIONS :

Advocated, *Maconochie* - - - 58,334, 58,407

Advocated, and should apply also to part-time officers, *Fleming* - - 59,385-92, 59,409-10

Advocated for whole-timers, *Salvesen* - 58,962

Desirable for, but less important than for deputies, *Anderson* - - - - 60,012-5

System for deputies advocated, and suggestion *re*, *Andrew* - 58,065-75, 58,095-7, 58,103-5,
58,115-6

Personal attendance during office hours in larger counties, *Bisset* - - - - 57,077-81

PRIVATE PRACTICE :

Advantage of, *Salvesen* - - - 58,962

should not be Allowed if whole time can be taken up by official work, not approved otherwise, *Fleming* - - - - 59,384, 59,394

Permitted in some cases, *Bisset* - - 57,069-76

Prohibition :

Advocated, but holding of public appointments might be allowed, *Harrison*, 59,216-8; *Lewis*, 59,502-4, 59,569-72, 59,572-6; *Anderson*, 59,991-4, 60,010-1, 60,059-62

would be Approved if salary made sufficient, *Bisset* - - - 57,082, 57,248-52

Required in recent appointments and important counties, *Bisset* - - - 57,069

Right to, of present men should not be interfered with, *Bisset* - - - - 57,179

Promotion, difficulty *re*, *Maconochie* - 58,390-4

PROMOTION BY TRANSFER :

Advocated, *Anderson* - - - 59,974-6

by Lord Advocate in consultation with Sheriff preferred, *Dunedin* - - - 58,501-3

Possibility of, *W. Brown* - - - 58,714-5

System of, desirable, but some present men would not care to move, *Bisset* - - - 57,022-5

no System of, and cases rare, *Bisset* - 57,020-1

System among, desirable and would work satisfactorily, *Murray* - - - 58,045-6, 58,054

if made Public appointments pensions should be given, *Dunedin* - - - - 58,493

PUBLIC APPOINTMENTS :

Approved, *Fleming* - - - - 59,439-41

Permitted in some cases, *Bisset* - - 57,073-5

Prohibition of, would be approved if salary made sufficient, *Bisset* - - 57,082, 57,248-52

Right to, of present men, should not be interfered with, *Bisset* - - - - 57,179

QUALIFICATIONS :

Law Agents examinations or equivalent and certain experience advocated, *Lewis* - - 59,492-5

Legal training considered desirable, official experience can be picked up as regards smaller towns, *Fleming* - - - - 59,342-3, 59,417-26

Official experience and procedure more important than legal knowledge, *Maconochie* - 58,260-4

in Practice, and solicitors considered more suitable than clerk in office, *Bisset* - - - 57,006-16

Qualified law agent with considerable experience of Sheriff Court business advocated with possibility of execution, *Anderson* 59,919-23, 60,049-52

Special, required, *Andrew* - - - 58,015

no Statutory qualifications, *Bisset* - - 57,005

Recommendations in report and evidence of Lord Salvesen's Committee, non-carrying out of, *Bisset*, 57,262-5; *W. Brown*, 58,724-5, 58,730-3.

Remits from Sheriff, approval of system, *Maconochie*
58,376

Responsibility of, *Dodds* - - - - 55,600-4

RESPONSIBILITY FOR ACTS OF STAFF :

should not Continue if method of appointment, & c., changed, *Bisset* - - 57,161, 57,169-70

Sheriff Clerks—continued.**RESPONSIBILITY FOR ACTS OF STAFF—continued.**

Extent of, and cases, <i>Bisset</i> - - -	57,162-8
Fidelity guarantee or insurance not common, <i>Bisset</i> - - -	57,170
Question as to extent of cases of enforcement, <i>Maconochie</i> - - -	58,349-52
Retention important, <i>Maconochie</i> - - -	58,345-8
	58,353-4
Staff in Lanarkshire required to find caution or insure, <i>Maconochie</i> - - -	58,355

RETIREMENT:**Fixed age:**

Advocated, and 70 suggested, <i>Fleming</i> - - -	59,385-8
should not be Compulsory on present men, and suggestion <i>re</i> , <i>Bisset</i> - - -	57,179-84
would not be Objected to if pensionable, <i>Dunedin</i> - - -	58,496-7
70 would be early enough, <i>Maconochie</i> - - -	58,410
at 70, Paragraph in commissions <i>re</i> , and condition not known of when appointment accepted, <i>Bisset</i> - - -	57,067-8

SALARIES:

Inadequacy in some cases, <i>Maconochie</i> - - -	58,339-44
Small, but no claim to increase, <i>Fleming</i> - - -	59,394
Size of districts of, and salaries, great variations in, <i>Bisset</i> - - -	57,018-9
Suggestions <i>re</i> , summary, <i>Bisset</i> - - -	57,157

WHOLE-TIME:

Difficulty in smaller counties and reduction in number of Sheriff Clerks would be approved, <i>Bisset</i> - - -	57,083-91
Increase not advocated unless work sufficient, <i>Fleming</i> - - -	59,426-8
Question considered on vacancy, <i>Dodds</i> - - -	55,568
not necessarily Whole-time officers, <i>Dodds</i> - - -	55,566
Work <i>re</i> book-keeping, <i>Maconochie</i> - - -	58,262-3
Work done by, for Scottish Land Court, and payment by fees, <i>Kennedy</i> - - -	59,750
Sheriff Clerks Depute Association, membership, <i>W. Brown</i> - - -	58,708

Sheriff Clerks of Scotland Association:

Explanation, <i>J. Hamilton</i> - - -	58,660
Membership, &c., <i>Bisset</i> - - -	56,906-8
Representative, <i>see Bisset</i> , Christopher Johnston - - -	56,902-57,320

Sheriff Courts:

Applications for confirmation or appointment of executors, court for, determined by domicile of testator, <i>Bisset</i> - - -	56,919-20
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AUDITOR:

Holding of post by Sheriff Clerk or Sheriff Clerk Depute, and approval of, <i>Bisset</i> - - -	57,144-5
Private work, practice of, and approval, and same accounts would not afterwards be audited in official capacity, <i>Bisset</i> - - -	57,224-39
Remuneration by fees, work might be included in that for which salary paid, if salary increased, <i>Bisset</i> - - -	57,146-51

Civil Service system not suitable for, *Harrison*

	59,219-20
Consignations, explanation, <i>Bisset</i> - - -	56,942-8
Cost supported by local funds, <i>Dodds</i> - - -	55,555-6
Discipline, &c., control, <i>Dodds</i> - - -	55,581
Forfarshire, system, <i>Bisset</i> - - -	56,958-80
Jurisdiction, <i>Bisset</i> - - -	56,910-5
Lanarkshire, staff, <i>Bisset</i> - - -	56,988
Recommendations in Report and evidence of Lord Salvesen's Committee, non-carrying out of, <i>Bisset</i> - - -	57,262-5

RECORDS:

Custody of, &c., <i>Bisset</i> - - -	56,915-8, 57,273-80
no General index, but deeds relating to particular county registered in that county, <i>Bisset</i> - - -	57,281-5
Transfer to Register House desirable, <i>MacDougall</i> - - -	55,678-9

Register of Deeds, <i>Bisset</i> - - -	56,936-41
System, <i>Dodds</i> - - -	55,552-7
Work, increase in volume and complexity, <i>Lewis</i> - - -	59,490-1

Work well done, <i>Anderson</i> - - -	60,022-3
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Sheriffs:

always Advocates, <i>Dodds</i> - - -	55,553
Appointment by promotion preferred wherever possible, <i>R. Munro</i> - - -	60,130-3

Sheriffs—continued.

Clerk attached to, distinction of functions from those of deputies, <i>Bisset</i> - - -	56,992-7,000
Consultation of, <i>re</i> appointment of Procurators Fiscal advocated, <i>Lewis</i> - - -	59,540, 59,555-6
Depute, always advocates, <i>Dodds</i> - - -	55,553
Dumfries and Galloway sheriffdom, organisation and staff, &c., <i>Fleming</i> - - -	59,325-6, 59,328
Fife and Kinross sheriffdom, organisation and staff, &c., <i>Fleming</i> - - -	59,326-31
Functions, <i>Dodds</i> - - -	55,552
Non-resident except in Edinburgh and Glasgow, <i>Bisset</i> - - -	56,922
Non-resident in jurisdiction, <i>Dodds</i> - - -	55,554
Pension system, <i>Andrew</i> - - -	58,069-72, 58,098
Politics not taken part in after appointment, <i>R. Munro</i> - - -	60,250-5

Sheriffs Substitute:

not Appointed by Sheriff, and work could not be covered by, <i>Bisset</i> - - -	57,266-7
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APPOINTMENT:

Method, <i>Dodds</i> , 55,621; <i>Dunedin</i> , 58,444-5.	
Personally by promotion and transfer, irrespective of political considerations, <i>Dunedin</i> - - -	58,420, 58,431-2
Jurisdiction, &c., <i>Dodds</i> - - -	55,661-2
Lanarkshire, attachment of clerk to each, and duties of, <i>Bisset</i> - - -	56,991-7,001
Pension system, <i>Andrew</i> - - -	58,069-72, 58,098
Number and jurisdiction, <i>Bisset</i> , 53,924-7; <i>Dodds</i> , 55,554	
Salary, <i>Dodds</i> - - -	55,660
Sick leave, provision for, <i>Mackenna</i> - - -	57,509-12
Whole-time officers, <i>Dodds</i> - - -	55,567
Short, F. H., clerk in Central Office, reference - - -	49,796-8
Shuttleworth, Mr., former Clerk of Assize, reference - - -	51,477

Signet Office:

Keeper of the Signet, functions, <i>Dodds</i> - - -	55,545-6
Receipts, sources of, and covering of expenses of office by, and leaving of margin, <i>Jameson</i> - - -	58,252-5

SIMPSON, GORDON, District Probate Registrar
York, *see* ALMS, EDWARD, &c. 52,732-53,074,
Skinner, Mr., former Deputy Paymaster, reference

	50,425-6
Small Debt Courts, jurisdiction, <i>Bisset</i> - - -	56,914-5
Smart, John, Depute Clerk, references, 56,088-94, 56,162-3, 56,170, 56,637-8, 60,137-9, 60,315-21	

Solicitors' Offices:**BOYS:**

Age of appointment, <i>Kentish</i> - - -	54,460-1
further Education possible, but no steps taken <i>re</i> , <i>Kentish</i> - - -	54,462-3

CLERKS:

Pensions:	
Law Clerks Society, and extent of membership, <i>Kentish</i> - - -	54,307-12
Practice <i>re</i> , <i>J. R. B. Gregory</i> , 47,380-1; <i>Worley</i> , 48,290-1; <i>Winterbotham</i> , 49,935-7; <i>Morton</i> , 52,660; <i>Alms</i> , 52,875-81; <i>Kentish</i> , 54,301-6.	
Provident or pension societies in some large towns, <i>Morton</i> - - -	52,662-3
Practice <i>re</i> , when becoming inefficient, <i>Morton</i> - - -	52,658-9

Salaries, <i>Winterbotham</i> 50,036-7; <i>Kentish</i> - - -	54,298-300
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Selection of, <i>Winterbotham</i> - - -	49,945-6
Hours, holidays, &c., <i>Oakshott</i> , 47,124-5, 47,134-50, 47,164-9; <i>Goodchild</i> , 47,503-4, 47,526-9; <i>Caunt</i> , 50,241-9; <i>Kentish</i> , 54,293-6; <i>Murray</i> , 58,007-9.	

Important posts believed to be generally filled by seniority, <i>Caunt</i> - - -	50,118-23
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MANAGING CLERKS:

Appointment to important Government posts of solicitors only, best men might be excluded, <i>Kentish</i> - - -	54,396-400
Claim to special consideration in appointments as clerks in legal offices, <i>Worley</i> - - -	48,257-302
Explanation, position, &c., <i>Worley</i> - - -	48,227-37
Salaries, <i>Winterbotham</i> - - -	49,932-4
Work of, hours, &c., <i>Oakshott</i> 47,106-25, 47,138-48	
Organisation of work, <i>J. R. B. Gregory</i> - - -	47,314-28, 47,382

Solicitors Managing Clerks Association, objects, membership, &c., *Worley* - - - 48,225-6, 48,238-56
 Stephen, Sir Herbert, Clerk of Assize, reference 51,469

STEWART, W., and APPS, WESTON, writers in
 Scrivenery Department, Royal Courts of Justice :
 45,832-46,081

SCRIVENERY DEPARTMENT, ROYAL COURTS OF
 JUSTICE:

History of - - - - - 45,853-9
 Profit made by Treasury from, 1910 - 45,963-9

Writers:

Accommodation, &c., no complaints *re* 46,064

Appointment:

Age on - - - - - 45,990-1

Method - - - - - 45,948-9, 46,004-9

Appointments to clerkships in some cases 45,954

Civil Service certificates, non-obtaining of,
 owing to refusal of head of department to
 apply - - - - - 45,837-47

Counting of folios by men incapacitated from
 other work, and payment for - 46,013-6

Establishment, claim to 45,904, 45,975-80,
 56,061

Examining work - - - - - 45,929-42

Holidays, arrangement *re*, and grievance
 46,065-6

Hours worked, and question as to number of
 folios that can be copied per hour 45,888-902,
 45,905-8, 46,002

on different Level from writers working for law
 stationers - - - - - 45,927-31

Many men probably anxious to enter department
 45,950-2

Need for experience in law stationer's office, or
 for men to come into office very young 45,861,
 45,865-72, 46,017-21

Number - - - - - 45,833, 45,944

Pensions:

Claim to be made pensionable 45,832-46,081
 statutory Position *re* - - - 45,848-52

Scheme suggested by Treasury, 1910, of
 deductions from earnings, and impossibility
 of - - - - - 45,921-7

Whole of past service should be taken into
 account - - - - - 45,985

Permanency of employment 45,943-7, 45,953-5,
 45,981-2, 46,047-8

if Permanent officials, work would not be better
 done, but larger staff would be required and
 would be more expensive 45,961-3, 45,970-3,
 46,067-8

Position compared with that in law stationer's
 or solicitor's office - - - 46,031-149

Position under Superannuation Act, 1887, as
 regards gratuity on retirement - 45,909-19

Provident Fund, no steps taken to start
 45,956-60

Qualifications - - - - - 45,949, 46,017-21

Rates of pay, and average earnings, and possible
 maximum 45,873-87, 45,892, 45,933-42,
 46,003, 46,062-3

Salaries, graded system would be approved, and
 could start at less than present average
 45,989-99

Salary basis, lower salary than present earnings
 would be unfair - - - 45,987, 46,051-7

Scheme formulated by, *re* pensions and pay
 during holidays, but no result - 45,981,
 46,076-81

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THEOBALD, MASTER HENRY STUDDY, K.C.,

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